RHODE ISLAND

HISTORICAL TRACTS.

SECOND SERIES.

No. 4.

PROVIDENCE
SIDNEY S. RIDER.
1896.

Edition strictly limited to two hundred and fifty copies.

THE FORGERIES

CONNECTED WITH

The Deed given by the Sachems Canonicus and Miantinomi to Roger Williams

OF THE LAND ON WHICH THE TOWN OF PROVIDENCE WAS PLANTED.

BY

SIDNEY S. RIDER.

PROVIDENCE
SIDNEY S. RIDER.
1896.

PRELIMINARY NOTE.

THE question of a forgery in connection with the deed given in 1638 by the Sachems Canonicus and Miantinomi to Roger Williams of the land upon which the town of Providence was planted is not debatable; it is a fixed fact. There stands the deed. Look at it. The date 1639 has been added to the memorandum at the bottom of the deed. It is a forgery. But this is not all; there are other forgeries. The word "river" in the manuscript is a forgery; the signature of Roger Williams is a forgery; and the signature of Benedict Arnold is probably a forgery; but in the body of the recorded copy of the deed, that is, the first recorded copy, stands the great forgery, indicated in red ink in the folded copy herein contained, and by *italics* in the body of the Tract. Thus stands the case, and the purpose of this Tract is to show the fact, the object of those who performed the act, the

method and progress of the work, and the final result, the whole forming a unique chapter in Rhode Island history hitherto wholly unknown. These facts first came to the understanding of the writer in 1890. In the autumn of that year the writer mentioned them in a series of papers published in *Book Notes*, a small journal conducted by the writer, under the title, "The Great Land Conspiracy of the 17th Century in Rhode Island." So much of these papers as has been necessary has been incorporated into this Tract, and the strongest points have been recorded and reiterated in order that the main fact may become fixed in the mind if well founded, and become fundamental history if true. On page 23 the words "not I," in italics, should have been without parenthetic curved lines; the words form part of Mr. Williams's letter. Men must cease repeating these hoary lies or historically destroy this Tract.

INDEX.

I.

THE SYSTEM OF LAND TENURE WHICH THE MEN WHO PLANTED PROVIDENCE LEFT BEHIND THEM IN ENGLAND.

As a beginning to this history it may be well to set forth in a brief way the land tenure which the men who planted Providence left behind them in England; it will throw much light on their subsequent action.

About the year A.D. 725 the venerable Bede complained that "pretended" monks had obtained possession of vast tracts of land in England, and upon the products of the labor of other men upon those lands these monks and monasteries grew immensely rich, and Bede urges that these "pretended" monks be disbursed and the product of the lands used for the maintenance of the king's warriors — men were then the slaves of the monks. On the 15th June, 1215, Magna Charta became the fundamental law of England, and Chapter 36 declared that no lands shall be given or held in *mort main* (a dead hand). Many confirmations were

necessary in succeeding years to overcome the continuous efforts of interested men to overthrow this great statute. The chiefest of these confirmations was the statute of 1279. This statute forbade any person whatsoever, religious or other, to buy, or sell, or under color of any gift, term, or other title, to receive from any one any land or tenements in such a way that such lands and tenements should come into *mort main* (a dead hand). To-day we call these "dead hands" land corporations, and allow them to be created without limit. The usurpation of land by religious houses came to an end, but the use of the land for the maintenance of the king's warriors, as Bede had suggested, developed; the feudal tenure came to be the law of England. In the place of being slaves to the monks and monasteries men became the inferior vassals of feudal lords, owing fealty and homage to these lords for the use of lands, upon which their very existence depended, and which they could neither buy nor own. The books are full of the horrors of this Feudal System as it came to be developed. Chancellor Kent (*Commentaries*, Vol. III, p. 505), after giving a history of this tenure, and showing that the greatest part of the English land was held

under it, says, "The oppression of the feudal conditions of *relief*, *wardship*, and *marriage* was enormously severe for many ages after the Norman Conquest, and even down to the reign of the Stuarts" (A. D. 1603). A slight definition of the terms feudal tenure and fee simple may not be here inappropriate. The feudal tenure is thus defined: "The right to all land vested in the sovereign. These lands were parcelled out among the great men of the nation by the sovereign, to be held of him; the king had the *dominum directum* (sovereignty), and the grantee or vassal had the *dominum utile* (the right to use); the maxim was, '*Nulle terre sans seigneur*' ('No land without a lord'). These 'great men of the nation' as political, or otherwise, favorites of the king 'were bound to perform services to the king, generally of a military character;' and being themselves unable to use the vast lands which they held, let or leased or granted the use of them upon some term to other inferior vassals, who labored upon them, and 'were bound to perform services to their immediate lord.' These vast tracts of land were held by the 'great lord' in perpetuity, and descended to his sons" (Bouvier's *Law Dictionary*). But no such

hold could be obtained by the inferior vassal; he could acquire no title to land which he could transmit. These inferior tenants, farmers we now call them, were obliged not only to render military service to the feudal lord, but to otherwise pay him with corn, cattle, or in money (Stephen's *Commentaries*, Vol. I, p. 167). In case the feudal lord was taken prisoner these poor tenants were obliged to produce the money with which to ransom him. They were obliged to furnish the money necessary for the great ceremony and pomp in making the lord's eldest son a knight; and they were to supply the money for a suitable portion for the lord's eldest daughter upon marriage (Stephen's *Commentaries*, Vol. I, p. 178). Jacob's *Law Dictionary*, 1736, thus defines the word tenure: "It is the manner whereby lands are holden; it comes from the Latin *teneo*, to have or to hold. All lands in the hands of a subject are held of some lord or landlord by tenure or service. Tenures were anciently divided into the following: *escuage*, land held by service of the shield; *knight's service*, land held of the king, or mesne lord, to perform service, and which drew after it homage, escuage, wardship, etc.; *burgage*, where land was holden of

the lord of the burrough at a certain rent; *villenage*, a base tenure whereby the tenant was bound to do all inferior service commanded by the lord; *grand serjeanty*, a tenure held by honorary service at a king's coronation; *petit serjeanty*, lands held of the king to contribute some small thing towards the wars; *frankalmoigne*, land held by ecclesiastical persons in free and perpetual alms; *soccage*, lands held by tenants to plough the land of their lord and do other services of husbandry for their lord at the tenants' expense; *free soccage* was the tenure when these menial services for the lord were turned into an annual money payment of rent."

Such were some of the conditions of land tenure in England when Roger Williams came here to plant Providence. "A slavery so complicated and so extensive as this was called aloud for a remedy" (Stephen's *Commentaries*, Vol. I, p. 191), and the remedy came in the form of the fee simple, which Bouvier defines: "An estate in lands in reference to the ownership of individuals, and not restrained to any heirs in particular, nor subject to any conditions or collateral determination except the laws of escheat and the canons of descent."

"Unfortunately the prosperity of the landowners

was not accompanied by a corresponding improvement in the condition of the peasantry; on the contrary, it was very largely obtained at the expense of their comfort and well-being. This was the period when pauperism was generated in England to an alarming extent, and the poor laws of Elizabeth furnish the evidence that it had now become necessary to formulate measures for the relief of the poor into a definite system. They mark the commencement of that degeneration and steady deterioration in the condition of the peasant which, as we now look back, can be seen to be the natural and inevitable result of his being divorced from his share in the possession of the soil, and which has since created so wide a contrast between the condition of the agricultural laborer and his landlord in the present day" (Thackeray's *Land and the Community*, London, 1890, p. 20).

Prof. W. Stubbs, in his *Constitutional History of England* (Vol. I, p. 426), London, 1875, thus describes the condition of the villain class: "The man who had no political rights and very little power of asserting his social rights; who held his cottage and his garden at the will of a master, who could oppress him if he could not remove him, and

could claim without rewarding his services; who had no rights against his master, and who could only assert such rights as he had through the agency of his master. . . . He possessed no title deeds, by the evidence of which his rights were attested; he carried his troubles to no court that was skilled enough to record its proceedings. . . . The landless man might settle on the land of another or take service in his household; he might act as a hired labourer, or as a small rent-paying tenant; he might be attached hereditarily to his master or to the land that his master owned" (p. 427).

Such being the conditions which the Providence planters had left in England, we can scarcely exaggerate the spirit of freedom which must have possessed them upon landing upon these boundless lands, with no feudal landlord to confront them. But, imbued with the spirit of the system under which they were born, some of these early planters very soon desired to become feudal lords themselves, and it was out of this desire that came the circumstances which will herein appear as we proceed.

The act of Parliament by which feudal tenure, the title by knight's service, and vassalage were

abolished was enacted in 1660. On the very day in which Charles II entered London as a restored king the House of Commons asked him to confirm Magna Charta and the grants which followed. By this statute, in some aspects the greatest outcome of the Cromwellian Revolution, came the annihilation of villainage, vassalage, soccage, burgage, *nativi de stipite*, socman's, knight's service, neifs, and a host of other devices which human ingenuity had invented to keep the land from falling into the hands of men, or to make men the slaves of other men by means of the land. Villains were practically slaves to the lords of the manor. Neifs, the books tell us, were "she villains;" in other words, they were second daughters of Englishmen who were held under a lord of a manor. Such were the laws. These landholders were at once legislators, judges, and executioners; but a change came. The people cut off the head of the chief, in fact the only landholder in absolute fee in England, Charles the First, and land which previously the king had conferred upon his politically powerful friends in vast tracts, with power to make slaves of all men who tilled or occupied them, could be bought, sold, and owned by individuals. Men were no longer

slaves to monks nor to feudal lords, but could own land in fee simple and transmit it to their heirs. Such were the legal conditions of landholding in England in 1620 when the *Mayflower* sailed away for this western continent. Such a thing as individual ownership of land was practically unknown to those men in 1620 who landed at Plymouth. One of those men, Mr. William Hilton, in a letter from new Plymouth, written to his "loving cousin" in November, 1621, after describing the bounties of nature, to him then for the first time unfolded, thus speaks: "Better grain cannot be, than the Indian corn if we will plant it, upon as good ground as a man need desire. We are all freeholders; the rent day doth not trouble us." This letter, first printed in Smith's *New England Trials*, can be found in Young's *Chronicle of the Pilgrims*, p. 250. This man, now free as a bird, had never known anything but vassalage; his life had been spent in laboring for his feudal lord, his landlord.

In 1636 Roger Williams came here to buy a permission from Canonicus and Miantinomi to settle upon the land. The Feudal System was still the law of England, and so it continued for

a quarter of a century after he came. Williams had then no idea of an individual ownership of land. His idea was for the Indian to remove to other lands and make a little place for his thirteen people to build habitations. He had then no more idea, nor had any of his companions, of buying land for a State than we now have of a fee simple of the moon. The idea of a "consideration," that is, so much money for so many feet or acres given by him to another for the ownership of land, was as unknown to him as the telephone was to Franklin. And yet men speak disparagingly of the legal knowledge of Roger Williams, who drew the original deed, if it may be called a deed, which conveyed the land upon which the city of Providence now stands from the sachems to himself. Even so careful and astute a writer as Mr. Staples, subsequently chief justice of the Rhode Island Supreme Court, has written: "But upon the whole the instrument is so inartificially drawn, purporting to transfer only a life estate by its terms, when undoubtedly the fee was intended to be conveyed, as to render it very doubtful whether Mr. Williams ever pursued the study of the law, as his biographers assert, under the technical Sir Edward Coke."

"By this deed and the previous conveyance (if indeed there had been a previous conveyance), be it what it may, the title to the land vested in Mr. Williams alone. The consideration, such as it was, passed from him alone" (Staples' *Annals of Providence*, p. 27). Roger Williams was a young Englishman about thirty-six years of age when this settlement was made. A legal knowledge is a knowledge of the existing law; but if there was no existing law, how can a man be blamed for a lack of legal knowledge? No man then knew of an estate in fee simple nor of a "consideration such as it was" as a title to land. No man either in New or Old England had any more idea of drawing a modern deed of land than we now have of drawing a title to a sunbeam. So much is necessary to an understanding of the history which follows.

The towns first planted in Rhode Island were planted entirely upon the communistic theory of landholding; no such thing as an individual ownership existed. Lands were assigned for occupancy and cultivation to such individual settlers as the people were willing to admit by the town meetings. It was so at Providence in 1636; it was so at Newport in 1638; it was so at Warwick in

1647. Men sold each other what they had themselves placed upon the land, but the transfer of the occupation of the land was at first an act of the town meeting. In Providence a man to whom had been assigned land upon which he did not build was liable to have the land taken from him and assigned to another. Such a record exists under the date 3d of the 11th month, '52 (*Early Records*, Vol. II, p. 68): "Ordered that Edward Inman shall not be liable to forfeit his home lot for not building thereupon because he hath built in another more convenient place for his trade of dressing fox gloves." But here in Providence dwelt certain men who very quickly saw the immense value which the individual possession of the earth might be if it could be acquired, and they set themselves at work immediately to acquire it. A report was made to the town, 27 July, 1640, by William Harris and three others, proposing a form of civil government; the seventh proposition was: "Agreed that the town by five men shall give every man a deed of all his lands lying within the bounds of the plantation to hold it by for after ages" (Staples' *Annals of Providence*, p. 43). The earliest deed

now known is one from W. Harris to W. Arnold, dated 29 August, 1640; the second deed known is that from the town of Providence to William Arnold, dated 14 April, 1641; then follows a deed from Thomas Olney to William Arnold, 2 April, 1642. These men were subsequently among the partners of Harris. There are recorded in the first volume of the *Early Records of Providence* sixty-two individual transfers of land; of all these transfers only twelve (12) are dated before the year 1659, the year when the so-called "confirmation" deeds were made, and some individual connected with Harris in his land scheme was in one way or another connected with these twelve deeds. After 1660 the making of deeds multiplied very rapidly. This was the year of the repeal of the feudal tenure in England.

In Newport the lands were first made common (*Col. Rec.*, Vol. I, p. 88); home allotments of four acres were then made by the town, and on the 10th March, 1640, certain of the proprietors took the precaution to have whatever title they had to the land recorded. These men were W. Coddington, John Coggeshall, William Brenton, Nicholas Easton, William Dyer, John Clarke, Jeremy

Clarke, William Foster, George Gardner, Robert Stanton, and Robert Field (*Col. Rec.*, Vol. I, p. 99). This led to an order proportioning to each man his land and entering it upon record (*Col. Rec.*, Vol. I, p. 102); and on the 6th May, 1640, the town "ordered that all such who shall have a house lot granted unto them within any of our townes shall build a house thereon within a year after the grant thereof, or else it shall be forfeited to the town's use" (*Col. Rec.*, Vol. I, p. 103), but this order the other party soon had repealed.

On the 12th March, 1640, the town of Portsmouth was named (*Col. Rec.*, Vol. I, p. 101). But the inhabitants, in town meeting, had in 1638 "ordered and agreed that upon every man's allottment recorded in this book shall be his sufficient evidence for him and his rightly to possess and enjoy" (*Col. Rec.*, Vol. I, p. 54). On the 23d of the 6th month (August), 1638, Richard Dummer and his friends (eleven in number) were given thirteen lots, "they to build there at the Spring at farthest, or else their lots to be disposed of by the company" (*Col. Rec.*, Vol. I, p. 59). On the 6th of the 2d month, 1639, the town ordered "that

those parcels of ground which were planted the last year by several persons, the same may have liberty to plant also this year; and then all parcels of land to return to the Town, or to such to whom the land shall be appropriated unto" (*Col. Rec.*. Vol. I, p. 68). The territory Showomet was bought from the Indians in 1642; it became the town of Warwick in 1647. At some period between these two dates the people made a Town Order: "That we keep the disposal of the lands in our own name — that none shall enjoy any land but by grant of ye owners and purchasers — that whomsoever is granted a lot, if he do not fence it, and build a dwelling house upon it in six months, or in forwardness thereto, for ye neglect his lot is to return to ye Town to dispose of" (Fuller's *History of Warwick*, p. 13).

The essential principle of landholding in all these towns was that no man could hold land for the oppression or taxation of another man; no land could be seized and held for speculation or for profit out of persons desiring to use it for the welfare of themselves and of the community of which they were a part.

But these principles were quickly overthrown by

an intense purpose here to acquire the earth as an individual possession. These struggles began in serious earnestness about 1660, in a series of political and judicial actions on the part of William Harris and his partners to obtain possession in themselves of nearly all the land now comprising the northern half of Rhode Island. These struggles continued for nearly half a century. It is beyond question that this contention by Harris and those acting with him rested fundamentally upon certain forgeries connected with the original deed to Williams. It is with a view of setting these ideas clearly forth that this tract has been written. These ideas first suggested themselves to the writer in 1890, and in the autumn of that year they were set forth in *Book Notes* (Vol. VII), then in process of publication. Upon these papers, very much enlarged and extended, this tract is constructed.

II.

THE INDIAN DEED OF THE PROVIDENCE LANDS FROM CANONICUS AND MIANTINOMI TO ROGER WILLIAMS, AND THE TWO RECORDED COPIES OF THE SAME.

THE deed from Canonicus and Miantinomi to Roger Williams of these Providence lands was first printed in its entire form by Backus (*Hist. of Baptists in N. E.*, Vol. I, p. 89, Boston, 1777). It was then printed from the record of 1658. Mr. John Callender, in his *Century Discourse*, 1739, p. 19, gives an extract from the same record. In 1838 Mr. Elton, in his appendix to the *Callender Discourse*, gives the deed entire (*Collections R. I. Hist. Soc.*, Vol. IV, p. 204); this also is the deed as recorded in 1658. Following Elton came Staples (*R. I. Hist. Col.*, Vol. V, p. 26) with the same transcript; and so it has come along down to us always the same. In 1886 Mr. C. W. Hopkins, in his *Home Lots of the Early Settlers*, gave a facsimile of the original deed, which still exists

in the possession of the city government. Mr. Hopkins gave also a careful reprint of the record of 1658, and he also gave for the first time a careful reprint of the deed as recorded in 1662. Both records have now been given in the *Early Records*, that of 1658 in Vol. IV, p. 70; that of 1662 in Vol. V, p. 296. The record of 1662 presents one very curious and very interesting suggestion; the word "river," which in a strange handwriting now appears upon the original deed, *was not then* upon it.

The story of the recording of the deed in 1658 is told in the record, and is given herein. The story of the recording of the deed again in 1662 is not given in the record, but Mr. Olney, Jr., then town clerk and recorder, says, "The Enrolement of the wrighting called the Towne Evidence *after it was defaced*" (*Early Rec.*, Vol. V, p. 296). If the transaction had been correctly done in 1658, why was this record of 1662 made? This is a vital question. Strangely enough no attention was ever called to this fact until it was done by the present writer in 1890. No one has ever even called attention to the fact that two versions of this deed were upon the records, nor suggested the differences.

Here follows the deed as recorded in 1658 :

Att Nanhiggansick, The 24th of the first Month Comonly called March in the second yeare of our plantation, or planting at Moshausick, or Providence.

Memorandum, That wee Caunanicusse and Meiauantunnomu the two chiefe Sachims of Nanheggansuck, haveing Two yeares since sold unto Roger Williams the lands & meaddowes upon the two fresh Rivers called mowshausuck & wanasquatuckett, doe now by these presents Establish & Confirme the bounds of those lands from the Rivers & ffields of Pautuckett, The great hill of Neotaconkonitt on the norwest and the towne of Mashapauge on the west. *As also in Consideration of the many Kind neses & services he hath continually done for us both with our friends of Massachusett, as also at Quinitikticutt, And Apaum or Plimouth, wee doe freely Give unto him all that land from those Rivers Reaching to Pautuxett River, as also the Grasse & meaddowes upon Pautuxett River,* Jn witnes where of wee have hereunto set our hands in the presence of

The marke  Caunanicusse

of

The marke of  Meiantenomu

The mark of  Soatash

The marke of  Assotemewett

1639, Memorandum. 3. month. 9. day This was all againe confirmed by Miantenomu he acknowledged this his act and hand up the streame of Pautuckett & Pau-

tuxett without limmets wee might have for our use of Cattell.

wittnes here of

Roger williams
Benedict Arnold./

Here follows the same deed as recorded in 1662:

Att Nanhiggansick; the 24th of the first Month Comonly called March the 2nd yeare of our plantation, or planting at Moshosick, or providence,

Memorandum, that wee Caunounicus, & Miantenomu ye 2 cheife Sachims of Nanhiggansick having 2 yeares since Sold unto Roger Williams ye landes & Meaddowes upon the 2 fresh | Rivers | called Moshosick & wanasquatuckett doe Now by these presentes Establish, & confirme ye boundes of those landes from ye River & fieldes of pautu|c|kquitt, ye great hill of Neotaconckonett on ye Norwest, & ye Towne of Mashappauge on ye West

in wittnesse where of wee have here unto Sett our handes in ye presence of

ye Mke of  Caunounicus

ye mke  of Soatash

ye mke of  Miantenomu

ye mke  of Asotemewitt

Md 3 Mont: 9 die this was all againe confirmed by Miantenomu he acknowledged this his act and hand up the Streame of pautucke*tt* and Pautuxett without limmetts we might have for our use of Cattle Wittnesse here of

Roger Williams: Benedict Arnold

nth of the Twelfe Month 1658 At our Towne Court; William Arnold of Pautuxet Came
nt Court and did acknowledge That those two Coppies, (to witt) of william Harrises &
s which hath these words in them as ffolloweth, are the true words of that writeing
ne Evidence of Providence, And that which is wanting in the now writeing called the
ce, which agreeth not with those two Coppies was torne by accident in his house at

ppye of the Towne Evidence, as followeth,
igganſick, The 24th of the first Month Comonly called March in the second yeare of our
planting at Moshausick, or Providence.
dum, That wee Caunanicusse and Meiauantunnomu the two chiefe Sachims of Nanheg-
ing Two yeares since sold unto Roger Williams the lands & meaddowes upon the two
alled mowshausuck & wanasquatuckett, doe now by these presents Establish & Confirme
those lands from the Rivers & ffields of Pautuckett, The great hill of Neotaconkonitt on
d the towne of Mashapauge on the west. As also in Consideration of the many Kind
es he hath continually done for us both with our friends of Massachusett, as also at
And Apaum or Plimouth, wee doe freely Give unto him all that land from those Rivers
Pautuxett River, as also the Grasse & meaddowes upon Pautuxett River, Jn witnes
have hereunto set our hands in the presence of

Soatash — The marke of Caunanicusse

Assotemewett

The marke of Meiantenomu

norandum. 3. month. 9. day This was all againe confirmed by Miantenomu he acknowl-
s act and hand up the streame of Pautuckett & Pautuxett without limmets wee might
se of Cattell.
es here of

Roger williams
Benedict Arnold.

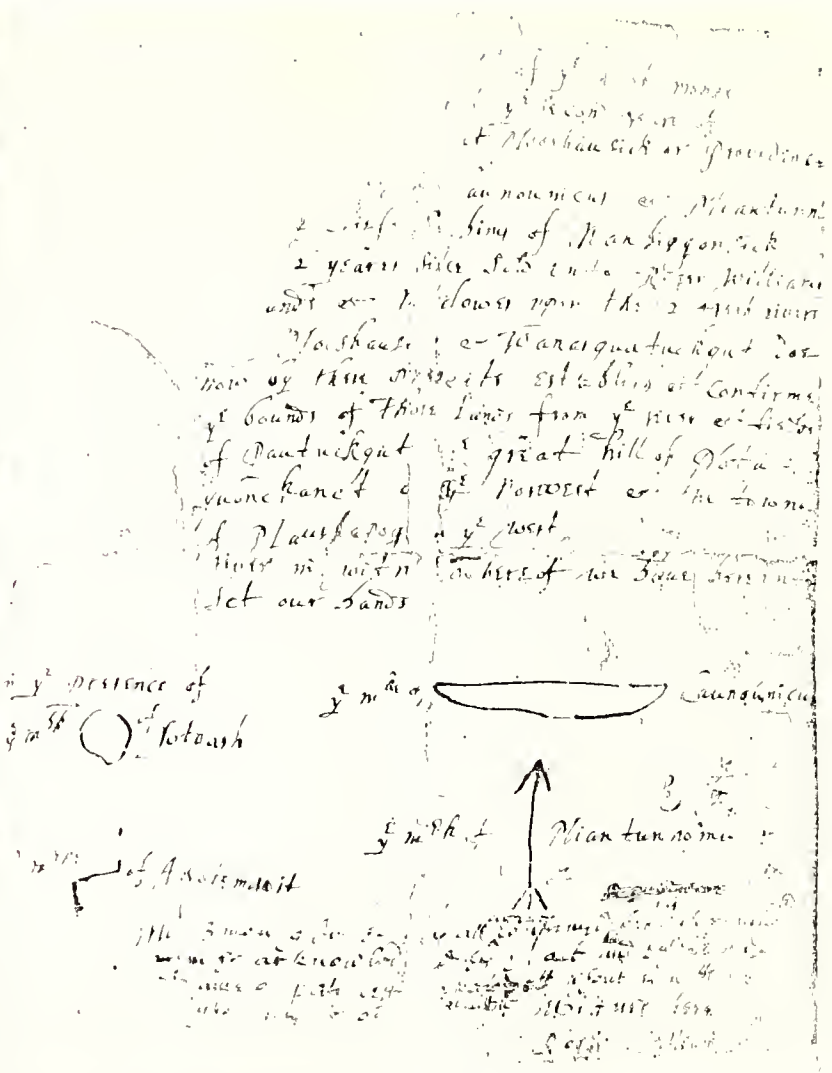
---

page opposite, is a fac-simile of the Original Deed from Canonicus and Miantinomi to
ns, of the land upon which the Town of Providence was planted. The original is still in
he Recorder at Providence, R. I. In 1658 this Deed, or what purported to be this Deed,
pon the Town Records. The story of the recording, and the Deed as recorded, is given
om the Early Records of the Town of Providence, Volume 4 (Four) pages 70–71, which
en recently printed by the City Government, under a Commission.
observed that the date 1639 which is prefixed to the "Memorandum" is not upon the
; the changes in the "marks" of the Sachems will also be observed; great changes in
e noted; and it will be observed, that in writing the name of the Sachem Miantinomi in
lum, the "Mi" was omitted, and subsequently interlined in another ink; but greater still,
ntire four lines next preceding the "Marks" of the Sachems were interpolations. The
r having signed any such conditions. The extent of these interpolations is shown above
e purpose was to found an underlying title to these lands, in the Pawtuxet purchasers;
s a series of law suits covering forty-seven years, instituted by William Arnold, William
hose connected with them in the scheme; had these men succeeded they would have
ire northern half of Rhode Island. But the scheme failed. The Deed as recorded is a

Sidney S. Rider.

20th November, 1895.

nomi to Roger Williams.



The Seventh of the Twelfe Month 1658 At our Towne Court; William Arnold of Pautuxet Came into this presant Court and did acknowledge That those two Coppies, (to witt) of william Harrises & Thomas Olneys which hath these words in them as ffolloweth, are the true words of that writeing Called the towne Evidence of Providence, And that which is wanting in the now writeing called the towne Evidence, which agreeth not with those two Coppies was torne by accident in his house at Pautuxet

A true Coppye of the Towne Evidence, as followeth,

Att Nanigganscick, The 24th of the first Month Comonly called March in the second yeare of our plantation, or planting at Moshausick, or Providence.

Memorandum, That wee Caunanicusse and Meiauantunnomu the two chiefe Sachims of Nanheggansuck, haveing Two yeares since sold unto Roger Williams the lands & meaddowes upon the two fresh Rivers called mowshausuck & wanasquatuckett, doe now by these presents Establish & Confirme the bounds of those lands from the Rivers & ffields of Pautuckett, The great hill of Neotaconkonitt on the norwest and the towne of Mashapauge on the west. As also in Consideration of the many Kind neses & services he hath continually done for us both with our friends of Massachusett, as also at Qunnitikticutt And Apaum or Plimouth, wee doe freely Give unto him all that land from those Rivers Reaching to Pautuxett River, as also the Grasse & meaddowes upon Pautuxett River, Jn witnes where of wee have hereunto set our hands in the presence of

The mark of ○ Soatash

The marke of ⌒ Caunanicusse

of

The marke of ⌒ Assotemewett

The marke of ⌒ Meiantenomu

1639, Memorandum. 3. month. 9. day This was all againe confirmed by Miantenomu he acknowledged this his act and hand up the streame of Pautuckett & Pautuxett without limmets wee might have for our use of Cattell.

wittnes here of

Roger williams

Benedict Arnold.

On the page opposite, is a fac-simile of the Original Deed from Canonicus and Miantinomi to Roger Williams, of the land upon which the Town of Providence was planted. The original is still in the Office of the Recorder at Providence, R. I. In 1658 this Deed, or what purported to be this Deed, was entered upon the Town Records. The story of the recording, and the Deed as recorded, is given above; it is from the Early Records of the Town of Providence, Volume 4 (Four) pages 70–71, which volume has been recently printed by the City Government, under a Commission.

It will be observed that the date 1639 which is prefixed to the "Memorandum" is not upon the original Deed; the changes in the "marks" of the Sachems will also be observed; great changes in spelling will be noted; and it will be observed, that in writing the name of the Sachem Miantinomi in the Memorandum, the "Mi" was omitted, and subsequently interlined in another ink; but greater still, almost the entire four lines next preceding the "Marks" of the Sachems were interpolations. The Sachems never having signed any such conditions. The extent of these interpolations is shown above in red ink; the purpose was to found an underlying title to these lands, in the Pawtuxet purchasers; the result was a series of law suits covering forty-seven years, instituted by William Arnold, William Harris, and those connected with them in the scheme; had these men succeeded they would have owned the entire northern half of Rhode Island. But the scheme failed. The Deed as recorded is a Forgery.

SIDNEY S. RIDER.

PROVIDENCE 29th November, 1895.

The Forgery connected with the original Deed from Canonicus and Miantinomi to Roger Williams.

By comparison with the original deed, a facsimile of which is herein included, two great changes will appear in the Arnold copy recorded in 1658. Those figures and words printed in italics are not in the document. The question arises, were they ever there? And if they were not there, how came they to be in the recorded copy?

The volume of *Early Records* just cited tells the story, to wit: "The seventh of the Twelfe month 1658 at our Town Court; William Arnold of Pautuxet Came into this presant Court and did acknowledge That those two coppies (to witt) of William Harrises and Thomas Olneys which hath these words in them as followeth are the true words of that writeing called the Towne Evidence of Providence; and that which is wanting in the now writeing called the Towne Evidence which agreeth not with those two coppies was torne by accident in his house at Pawtuxet — a true coppye of the Towne Evidence as followeth," — This record was placed upon the record by the Harris party, and it admits that things appear in it that the original does not exhibit. These changes consist of the clause in italics beginning "As also in Consideration," the date 1639, and many verbal

changes in the memorandum at the bottom of the document. To this memorandum it must be objected first that the date 1639 *is not upon it;* it has no date (see the facsimile attached to this tract). The original deed is at the City Hall, and can be seen by any one who is curious. An error must be noted in the date of the original deed as given in the *R. I. Colonial Records*, Vol. I, p. 18. John R. Bartlett, who edited these records, and who neglected no opportunity of making error, gives the date 1637. It was 1638. This is the proof. The deed is dated, "March in ye second yeare of our plantation." The only March in the *first* year was March 1636–7, hence the only March in the *second* year would be March 1637–8, as we now write it, 1638.

I object again that this memorandum was not the act and hand of Miantinomi, but was the act of some parties unknown; but even if genuine so far as the signatures are concerned, it had no binding effect upon Miantinomi, who was the grantor, he having had nothing upon the face of it to do with it; it was solely an act of the grantees, and as such could not enlarge the boundaries of the lands conveyed by the original deed to which

it is attached. The only legal force which by any remote possibility it might possess would be explanatory. But this is not necessary. It is true that Chief Justice Staples has said, "This deed is in an especial manner liable to the charge of ambiguity and vagueness" (*Annals of Providence*, p. 563). An examination of the deed alone by itself might lead to such a conclusion; but here comes in a fact, overlooked by all these gentlemen, which is conclusive against such an opinion. It is this: Mr. Williams says, "Miantinomi had set us our bounds here in his own person" (*Narr. Club*, Vol. VI, p. 390). How can a charge of ambiguity stand under such a statement? The Indian gave a written evidence of transfer, and then went personally with the white men around the whole tract which he sold and set the bounds. Such is the testimony of Roger Williams, the only unbiased witness in the settlement.

But Mr. Williams has left on record another bit of evidence which bears heavily upon this "memorandum," and which seems to have escaped the researches of these gentlemen. Mr. Williams's name is signed to the document, but he says concerning it: "One amongst us (*not I*) recorded a testimony or memorandum of a courtesy added

upon request by the sachem." If he did not record a testimony here, then his name must have been forged to the "memorandum" by somebody and for some purpose. This purpose Mr. Williams declares to be to seize from the Indians "all the meadows, and at last all the uplands," "up the streams so far as they branched or run," and this would take in the whole territory, whether owned by Indians or by white men, of what is now the State of Rhode Island north of the present town of Exeter, a tract comprising not far from three hundred thousand acres. By this memorandum this land was to be obtained, as Mr. Williams states, "upon no consideration given, nor the sachem's knowledge, or hand, or witnesses, nor date, nor for what term of time" (*Narr. Club*, Vol. VI, p. 390). Here I suggest that the "memorandum" declares that "all was again confirmed by Miantinomi," but Mr. Williams declares it to have been "without the sachem's knowledge." I further point out that Miantinomi is spelled without the preliminary "Mi" — thus, antinomey. The "Mi" is interlined with a different ink.

Besides this date 1639, there appears in the deed as given by Staples (*Annals of Providence*, p. 26)

the following words: "As also in consideration of the many kindnesses and services he hath continually done for us both with our friends of Massachusetts as also at Quinickicutt and Apaum or Plymouth we do freely give unto him all that land from those rivers reaching to Pawtuxet river, as also the grass and meadows upon the said Pawtuxet river." Like the date, these words are not to be found in the original deed. They are clearly interpolations — forgeries — steps in the development of a land conspiracy of great proportions. In a letter written by Roger Williams to John Whipple in August, 1669, appear these words: "However you (John Whipple) and W. Harris *conspire* to destroy your brethren for these crimes, yet if all be divulged that may be produced and proved, there was hardly ever in New England W. Harris his equal, for monstrous evils in land business" (*R. I. Hist. Tract*, 1st Ser., No. 14, p. 41).

It is my deliberate judgment that there are not in all the history of Rhode Island ten other lines so fraught with danger to the colony and so dangerously used as were these ten apparently innocent ones. They were the foundation of the great suits brought by the Pawtuxet purchasers, instigated by

William Harris and his partners, and which suits, had they reached final success, would have destroyed the colony and impoverished large numbers of the inhabitants. Little success attended the efforts of Harris and his partners at home, but in England success seems to have attended every step. Fortunately, in his final effort Harris died, in 1680, and Rhode Island was possibly saved from destruction. A document so charged with danger may well merit our most careful study, and the beginning of such a study will be attempted.

III.

THE DEVELOPMENT OF THE METHODS OF INDIVIDUAL HOLDINGS OF LAND IN THE PROVIDENCE SETTLEMENT. THE EVOLUTION OF DEEDS.

At this point of the narrative it may not be without interest to consider for a moment the method and growth of the system of land transfers which at first prevailed here. In the earliest volumes of the *Early Records* recently printed here certain documents are referred to in the indexes as deeds. They are merely memorandums of record, being, so far as they now appear, without signatures or witnesses or bounds or considerations or seals or acknowledgments; they are, so far as they therein appear, merely life estates, which did not descend, nor had they any reference to women or to dower rights.

Of the thirteen first comers, eight never held an individual title of their home lot. Of the remaining five men, William Arnold held five deeds, William

Carpenter thirteen deeds, William Harris four deeds, Thomas Olney five deeds, and Richard Waterman one deed. Of these men, Arnold, Carpenter, and Olney were among the Harris partners in the Pawtuxet scheme, and Waterman's heirs came in later. The same statement, in a general way, will hold good with reference to the thirteen second comers. Roger Williams never held land by any recorded deed, nor did he ever buy out any other man in order to speculate upon a new settler. He held only an undivided interest in his home lot and in the outlying territory.

There are in the second volume of the *Early Records* what appear to be sixty-nine individual transfers of land, bearing various dates between 1647 and 1658. Of these transfers, one bears date 1642; thirteen, 1644; two, 1645; two, 1646; one, 1647; nine, 1648; nine, 1650; one, 1651; eight, 1652; thirteen, 1654; one, 1656; eight, 1657; one, 1658. At what time these transfers were made it is impossible now to state, or when they were recorded. In a table of town meetings prefixed to this volume of the *Early Records* there were no town meetings mentioned in 1644, nor in 1646, nor in 1647; nevertheless sixteen of the

deeds or transfers above mentioned bear those years of entry.

The ownership of a house did not give a title to the land on which it stood, nor did the land carry the ownership of the house; a man might sell his house and other improvements, but his act did not convey the land. In 1652 Richard Pray was granted permission "to sell his house and fencing to any man, whom the Town shall approve, or to dispose of the lot unto" (*Early Records*, Vol. II, p. 67). The transfer of the land was at first an act of the community; the sale of the house was an act of the owner, an individual. The act of the town in transferring the land appears at first to have carried with it no title to the improvements. In 1667 Thomas Bruce was admitted an inhabitant, "that is to say that he may injoy what he shall hire, or buy" (*Early Records*, Vol. III, p. 122).

The precise time when William Arnold obtained a deed to himself from the town of Providence is not certain. It bears date 14th 2d month, and after, in brackets, the year 1641. It was recorded 27 July, 1659. This deed conveyed to Arnold, among other properties, the "House and Land now in the hands and occupation of William Field."

This date of record is, in the light of the record of the original Indian deed made upon Arnold's suggestion, a most suspicious circumstance.

Many divisions of land were made by lottery. In 1649 some land in the possession of one Lea was given by lot to one of six (6) persons (*Early Records*, Vol. II, p. 42). In 1665 a division of lands east of the seven-mile line was made by lottery; there were ninety-four parcels. It was attempted by certain parties to prevent Roger Williams from having any part in this division. But other counsels prevailed; he was allowed a share, and drew number three (3) (*Col. Rec.*, Vol. III, p. 72). These land lotteries continued into the eighteenth century.

In all the early deeds men disposed of the lands without reference to any claim on the part of their wives. The earliest deed which I have discovered in which a wife took part is that by Robert Cole, which Cole deeded land to "Robert Pray and Mary his wife," 3 February, 1653.

Philip Greene was the widow of John Greene. In May, 1659, she signed a deed confirming her husband's deed to V. Whitman and "freely passing it (the land) away from herself" (*Early Records*, Vol. I, p. 105).

In 1661 a clamor was raised by certain men to obtain a more definite title of the land from Roger Williams. A committee was appointed December 6, 1661, to confer with Williams; a week later (December 13) these men raised the question of getting Mary Williams's assent to the deed, and the committee was directed to confer with Mrs. Williams (*Early Records*, Vol. III, p. 6); and a week later, December 20, 1661, the deed was signed by Roger Williams and by Mary Williams, his wife. The deed is printed in Staples' *Annals of Providence*, p. 30. The people still pursued Williams, requiring a record of his first deed to them in 1638. It was entered upon record in 1666 as "a True Coppie of the wrighteing given by me twenty-eight years since." It is not signed by Mary Williams, nor is she mentioned in it (*Early Records*, Vol. III, p. 91).

A deed by Henry Reddocke in 1666 bears the signature of Mabell, and conveys "Dowries, Joyntures, Intailes, or of any claim of thirds" (*Early Records*, Vol. III, p. 115).

Seals were not at first considered essential to the validity of a deed. The first Indian deeds bear no seals. Seals came practically into use here with

the fee simple. There is a statement of a seal upon a deed in 1646 by William Arnold, but such a thing was not entered upon the record. The deed may have had no actual seal. This deed was not entered upon the record until 1662. (*Early Records*, Vol. I, p. 81.)

Roger Mowry used a seal in 1659, Anne Smith in 1661, Joseph Williams in 1663, and from that time they were common here.

Many deeds entered upon record after 1661, and claimed to have been written earlier, declare the "handes and seales" affixed, but such things were not then recorded.

The deeds written before 1660 were comparatively few in number, and the recording of them was not considered a matter of consequence. After 1660 many of these former deeds, or what were claimed to be former deeds, were presented and recorded.

Witnesses to signatures were not common; the earliest which I have discovered is that of Mary Coles (her mark) on a deed dated 11 June, 1656, but not recorded until 1671 (*Early Records*, Vol. III, p. 199).

Acknowledgments of deeds in the presence of the

recorder were occasional after 1661. Such a case was that of Anne Smith, widow; she signed a deed 4 May, 1661, but if the record is true she acknowledged the deed one day before it was made —on the 3d of May.

This acknowledgment in precisely this form appears in the *Early Records*, Vol. I, p. 23. The deed was by John Ackars:

And acknowledged before me
Richard Tew
General Ass
istant

On the 27 April, 1659, Roger Mowry "in the face of the Court acknowledgeth that he sold unto Robert Colwell the house and land," etc. (*Early Records*, Vol. II, p. 22).

On the 27 February, 1647, the town meeting "ordered that Mr. Throckmorton shall have the house and land that was Edward Cope's, that he shall bring in a discharge from the creditors of the said Edward Cope, or else the said Throckmorton shall pay to the town of Providence fifteen pounds in wampum."

Here is an instance of this transfer of land from

one holder to another by the town or the community. William Harris, on the 18 February, 1661, asked the town "to grant unto him a six acre lot in the 'Neck' which formerly belonged to Richard Scott," and it was so granted. Harris gave no consideration to Scott nor to the town, nor had Scott or his wife any hand in the transfer (*Early Records*, Vol. III, p. 14).

The idea that no matter how you get it, but get money, was the prevailing one in Rhode Island in 1660 in regard to land. Men begged, bought, and stole it. Here is one evidence of this stealing: Edward Manton and John Fenner were ordered to "speedily pluck up a fence which they have inclosed a piece of ground and lay it open again that people may have free recourse upon it" (*Early Records*, Vol. III, p. 18).

Such was the story of the development of the idea of the individual holding of land here in Rhode Island when men first began to settle here; and such is the story of the evolution of individual title deeds to land.

In these respects the first planters here did not differ materially from the planters of the surrounding colonies.

The earliest deed with a consideration in Plymouth Colony was in 1627, if my researches are correct, and from that time until 1639 there were only twenty-nine (29) deeds; one was with a marriage consideration, four without consideration, and twenty-four (24) with consideration. The deed with the marriage consideration was given by a woman to a man who was to marry the woman's daughter. No women signed their husbands' deeds in these early times, nor were dower rights considered. The earliest sealed and witnessed deed which I have discovered in the Plymouth records bears date 13 July, 1639.

In 1641 Susan Hatherly signed a deed jointly with her husband. The deed did not convey in terms her legal rights.

In 1643 a man signed a deed in which he bound himself that his wife should within six months release her rights.

In Massachusetts it was enacted in April, 1634, "that if any man hath any greate quantity of land graunted unto him and doeth not build upon it or improve it within three years it shall be free for the Court to dispose of it to whom it pleases." A little later it was enacted "that none but the

General Court hath power to dispose of lands, or give and confirm properties" (*Mass. Col. Rec.*, Vol. I, pp. 114, 117).

There is in the possession of the writer hereof a copy of a deed given in September, 1699, by Zachariah Eddy to Benjamin Chase of lands at Swanzey, Bristol County, Province of Massachusetts Bay, in which the tenure under which Eddy held is thus written: "That the said Zachariah Eddy is the true, sole and lawful owner of all the above granted premises and stands lawfully seized thereof in his own proper right of a good sure perfect estate of inheritance in Fee Simple, according to his Majesties Manor of East Greenwich in the County of Kent, within the realme of England in Free and Common Soccage and not in Capite, and Knights' Service, and that without matter of condition, reversion, or limitation whatsoever." Lands held in free soccage could not be so held without condition. There could not be such a tenure as free and common soccage in fee simple.

These things show undeniably that the method of individual land titles was in a process of evolution not only here in Rhode Island, but every-

where else in New England. It was in no way different here from Massachusetts or Plymouth. In the case above the conveyancer had heard of certain tenures, but of the intent and purpose of the terms he knew nothing whatever.

It is not necessary to this history to go into a history of the results of these changes in the methods of holding land, but one of these results is of so marked a character that it cannot be out of place here to mention it.

In 1650 the town of Providence fixed the price of land, to such as were admitted, for a home lot one shilling per acre, and for such other outlying land as a settler desired, not exceeding in all twenty-five (25) acres, at six pence per acre; a home lot was five acres. The land along Westminster Street in Providence was all in 1650 six pence per acre.

Let us here enter upon a little computation concerning an investment in land made in 1650. Suppose Waterman bought the land which is now the southwest corner of Westminster and Dorrance Streets, as in fact he did, and suppose Waterman paid for this land at the rate of six pence sterling —for that was the price the town fixed for it—

and suppose that Waterman and certain of his heirs had ever since held this land, as in fact they now do hold it, how would the investment stand? Allowing that the use by the Watermans had paid the taxes, this land would have "stood them in" as follows: In 1698, $2 per acre; in 1746, $32; in 1794, $512; in 1842, $8,192; in 1866, $32,768; in 1890, $131,072 per acre, which would be a trifle over $3 per foot. It was valued in 1890 at $35 per foot. Who gave this land this increased value? Did the Waterman heirs do it? And who are now paying the Waterman heirs (of whom none are living in Rhode Island) enormous annual returns for the increased value so given, and, as has always been the case, paying the taxes of the Watermans in addition.

The cost of this land estimated above was reached by compounding the interest annually at six per cent. This very land was leased in 1875 for sixty years, on a valuation for 1875 of $25 per foot. In 1895 an estate on Westminster Street was sold and at once leased for fifty years; the then present valuation of the land was at $40 per foot. In 1896 an estate on Westminster Street was leased for a term of years; the land value upon which this rent was

fixed was at $50 per foot. Every inch of these lands was bought, or might have been, in 1650 at the cost of six pence per acre, which acre contained 43,560 feet.

IV.

THE GROUNDS UPON WHICH RESTS AN OPINION THAT A FORGERY EXISTS IN CONNECTION WITH THE ORIGINAL DEED.

THE grounds upon which rests my opinion, that the record made in 1658 of the original deed or town evidence given by Canonicus and Miantinomi to Roger Williams of the lands upon which the city of Providence now stands contains two forged items, may be thus stated. In the records this deed stands recorded (*Early Records*, Vol. IV, p. 70), and in the body of the deed are these words printed in red ink in the accompanying facsimile: "As also in Consideration of the many Kindneses & services he hath continually done for us both with our friends of Massachusett, as also at Quinitikticutt, And Apaum or Plimouth, wee doe freely Give unto him all that land from those Rivers Reaching to Pautuxett River, as also the Grasse & meaddowes upon Pautuxett River." These words are not contained in the original deed as now preserved, and

I maintain that no such words were ever contained in the deed and are now lost by mutilation. Again, beneath the signatures of the sachems on the original deed there is written a memorandum in these words: "Md 3 mon 9 die This was all [againe] confirmed bye [Mi]antinomy he acknowledged this his act and hand up the streame of Pautuckett & Pautuxett without limmets wee might have for our use of Cattell." This memorandum is apparently signed by Roger Williams and Benedict Arnold, the latter a son of the William Arnold concerned in the "record" with William Harris.

It will be seen that in the "record" a date (1639) has been prefixed to this memorandum, which date is not now, nor was it then, upon the deed, for in this place no pretense of anything lost from the original paper can be urged. This date then has been added by somebody, and hence it is a forgery. But let us now return to the main clause above written. This clause grants for a consideration, this fee of the land, the entire length of the Pawtuxet River, "also the Grasse and the meaddowes;" if it was in the original deed it was written there in March, 1638. Why a year later, in 1639, write the memorandum beneath which only created

an easement. The cattle only could use the grass, and yet the grass and the meadows went by the deed. If these words were really written there in 1638, there certainly existed no reason for the memorandum. Nevertheless, the memorandum was actually upon the deed. Now let us examine the "Consideration." The words are, "in Consideration of the many Kindnesses & services he [Roger Williams] hath continually done for us both with our friends of Massachusett, as also at Quinitiktcutt and Apaum or Plimouth." Previous to March, 1638, when this clause is pretended to have been written, what services had Williams "continually" done for the Narragansetts? The expedition to Connecticut, which was the greatest service which Williams rendered in that direction, is given by Knowles as 1638, in September. Other writers give the date as in October. In either case six months *after* the signing of the deed (*Narr. Club*, Vol. VI, p. 120); and Williams's expedition to Apaum, or Plimouth, was subsequent to this to Connecticut (*Narr. Club*, Vol. VI, p. 125). The services which Williams "hath continually done for us" took place between 1636 and 1658, but not between March, 1636, and March, 1638. This phrase is an

anachronism; it was true in 1658, but not true in 1638. The word "continually" is evidence against the genuineness of the clause. The memorandum at the bottom of the deed purporting to be signed by Roger Williams and by Benedict Arnold, but not in the presence or with the knowledge of the sachems, says, "This was all confirmed by antinomu." Would either Williams or Arnold have written Miantinomi's name in that form? We think not. "Up the streame of Pautuckett, and Pautuxett without limmets wee might have for our use of Cattell." What kind of a confirmation is that by which the sachems (having given the absolute fee of the land) reduced the colonists' rights to that of pasturage only? Would Williams and Arnold deliberately have gone to work to *reduce* the purchase which Williams had made? Whatever Williams might have done, Benedict Arnold would never have done such a thing. He was land hungry, first, last, and all the time; he wanted the earth. He would never have done a thing which would have curtailed any right to land ownership which he had acquired. It is clear then that when the memorandum was written the clause did not exist in the deed. No man in Rhode Island in

1638 knew enough concerning land titles to have constructed the clause. In 1658 William Harris had acquired the art. The fee simple was not known in 1638, but it was well understood in 1658 when Harris and Arnold induced the town meeting to record their alleged copy, which they declared in these words was a genuine copy of the original: "The seventh of the Twelfe month 1658, at our Towne Court; William Arnold of Pautuxet came into this presant court and did acknowledge that these two coppies (to wit) of William Harrises & Thomas Olneys which hath these words in them as followeth are the true words of that writeing called the Towne Evidence of Providence, and that which is wanting in the now writeing called the Towne Evidence which agreeth not with these two coppies was torne by accident in his house at Pawtuxet" (*Early Records*, Vol. IV, p. 70). This admits the interpolation of words, but asserts they were the "true words." The conspirators were careful not to claim that their interpolations were the genuine original words in the deed, nor do they pretend to account for the addition of the year 1639; but men who would do such a thing would not long hesitate to lie about the interpola-

tion. Every man then present must have known of this interpolation, but only two or three knew or suspected the scope of it. No *settler* would object to this vast enlargement of the boundaries of the land, then supposed to be held in common, and both Canonicus and Miantinomi were dead, and no other Indian knew anything about the original boundary which Mr. Williams says Miantinomi showed to the settlers. No settler would and no Indian could object to this fraudulent record. There is some evidence that the town meeting by which this fraudulent deed was ordered recorded was improperly called, and possibly packed, but of this we will speak later. Now comes the final act in this conspiracy, which was the obtaining from the then living sachems of writings in which these chiefs were held to *confirm* the act of Canonicus and Miantinomi. These three writings Harris and his party declared were "confirmation" deeds. They are printed in the *Colonial Records*, Vol. I, pp. 35–38, and in Staples' *Annals*, pp. 567–569. They all bear date 1659, one year after the fraudulent record. The conspiracy was now complete.

Let us now restate a few events in chronological order out of which grew this conspiracy. *First*

came the original deed or town evidence, dated 24 March, in the second year of our plantation, (1638) from Canonicus and Miantinomi to Roger Williams of the land on which Providence now stands. *Second* came the memorandum beneath this deed *undated*, granting the use of land for the use of cattle. *Third* came an agreement, dated 8 October, 1638, among the original proprietors, the first thirteen, by which Williams sold to them, himself being one, all the Pawtuxet lands which his former deed to these same proprietors did not cover. These two parcels of lands were known as the "grand purchase of Providence" and the "Pawtuxet purchase" (Staples' *Annals*, pp. 34 and 576). *Fourth* came an agreement, dated 24 July, 1640, among these thirteen original proprietors, separating by a line, to be subsequently laid out, the lands comprised in the "Pawtuxet purchase" from the lands of the "grand purchase." Thus whoever then represented the original owners must under these last two agreements have a title to all the lands covered by the Indian deeds lying west or northwest or southwest of this Pawtuxet line. *Fifth* came the purchase by John Greene from Miantinomi of the lands at Occupas-

netuxet in the year 1641 or very early in 1642; these lands were along the shore just below Pawtuxet. *Sixth* came the purchase of Showomet by Samuel Gorton and his companions in 1642. *Seventh*, came the fraudulent record of 1658, with the interpolated date of 1639 attached to the memorandum. *Eighth* came in 1659, the three "confirmation" deeds, all procured by Harris and his partners, for every witness to these deeds was in the scheme with Harris. The scheme was now complete; these three deeds "confirmed" to the men of Providence and the men of Pawtuxet all the lands along the rivers Pawtucket and Pawtuxet and the lands between them, and as a matter of course, under the transfer of October, 1638, and the dividing line of 1640, by which all lands west of this line went to the "Pawtuxet" purchasers, all these new lands, "confirmed" by the younger sachems, fell to the Pawtuxet owners; Harris and his partners then owned eight tenths.

Now appears the great importance of the date of 1639 affixed to the recorded copy of the deed. It came after the grant of 1638, and the dividing line of 1640 followed it, and, more serious still, it an-

tedated the John Greene and Showomet purchases. The scheme was perfect and complete, and covered half of the present State of Rhode Island, and it presented a case of great strength for Harris, resting as it did upon the town records and upon original deeds. Having been allowed to stand unquestioned for years upon the town records, its validity could not be called in question when Harris rested upon it.

Let us now go back to gather certain scattered items relating to these transactions, but which could not well be brought into the preceding statement. The names of Roger Williams and Benedict Arnold are attached to the memorandum beneath the original deed. Mr. Williams has denied any connection with this transaction. He says: "After Miantinomi had set us our bounds in his own person because of the envious clamors of some against myself, one amongst us (not I) recorded a testimony, or memorandum of a courtesy added (upon request) by the Sachem, in these words *up stream without limits;* the courtesy was requested, and granted that being shortened in bounds by the Sachem, because of the Indians about us, it might be no offence if our few cows fed up the rivers where nobody

dwelt, and home again at night; this hasty unadvised memorandum W. H. interprets of bounds set to our town by the Sachems; but he would set no bounds to our cattle, but up the streams so far as they branched, or run, so far all the meadows, and at last all the uplands, must be drawn into this accidental courtesy and yet upon no consideration given, nor the Sachem's knowledge, or hand, or witnesses, nor date, nor for what term of time, this kindness should continue" (*Narr. Club*, Vol. VI, p. 387). This letter was written by Mr. Williams 18 October, 1677. It refers, of course, to the memorandum. Williams says, "It has no date." He certainly could not have said this had the year 1639 been written there. Williams says "upon no consideration given." Had the clause as recorded been in the original deed could Williams have written this? Certainly not. This memorandum must have been written after some seasons had passed, for Mr. Williams says the settlers had become "shortened in bounds." Increase in population alone could do this. Mr. Dorr says, "Several seasons were required in order to make good meadows, some time passed before the Plantations had cattle" (*R. I. Hist.*

Tract, No. 15, p. 57). The bounds of the purchase which Mr. Williams mentions, he knew very well, so also did the sachems, and so did all of the original proprietors, of whom William Harris was one; but we do not now know all of them, their names only being familiar. These land acquisitions had extended in two directions, north and west; Mr. Williams has so written (*Narr. Club*, Vol. VI, p. 330), and he has specified these extensions (same, p. 391).

This memorandum beneath the original deed, which Williams says he had no hand in, Judge Staples says was written by Thomas James (*Annals of Providence*, p. 27).

Mr. Williams has given his opinion concerning this Harris claim in several places (*Narr. Club*, Vol. VI, p. 390); he says after the confirmation deeds, "This after purchase, and satisfaction to all claimers, W. Harris puts a *rotten* title upon it;" again, "and calls it confirmation, a confirmation of the title and grant of up streams without limit; but all the Sachems and Indians when they heard of such interpretation, they cried *commootin*, lying and stealing" (*Narr. Club*, Vol. VI, p. 391); again, "his monstrous Diana, up streams without limits so

that he *might antedate*, and prevent (as he speakes) the blades of Warwick" (*Narr. Club*, Vol. VI, p. 392); again, "However you and W. Harris *conspire* to destroy your bretheren . . . yet if *all be divulged* that may be produced and proved there was hardly ever in New England W. Harris his equal for monstrous evils in land business" (*R. I. Hist. Tract*, No. 14, p. 41). The word "blade" above is given in Wright's *Provincial Dictionary* as meaning a "brisk, mettlesome, sharp, keen, and active young man."

There is a document printed in the *Providence Early Records* (Vol. II, p. 72), entitled *Salus Populi*. In these records it appears chronologically in April, 1653, but the error of this date has been shown by the writer (*Book Notes*, Vol. X, p. 134) from internal evidence. It is clear that this document relates to the matters here under discussion. It gives the names of the landmarks which Miantinomi showed personally to Williams. These names are, of course, English, and were subsequently given by the settlers. These landmarks were "the Fields of Patucket, Sugar Loaf Hill, Bewitt's Brow, Observation Rock, Absolute Swamp, Ox Foord, and Hipsie's Rock." The closing paragraph of this docu-

ment bears heavily upon these transactions. It is: "That no act of disposal of land or recording of lands or changing of lands shall be this towns act unless the number of (21) Twenty one purchasers, and that only respecting those lands within said old townward bounds any former act to the contrary notwithstanding." This must have been to prevent future "snap" town meetings in these matters.

In the former part of this paper an anachronism has been shown in connection with the clause interpolated. Let me here restate and enlarge upon the question. I intend to show that the great services which the clause mentions as having been "continually" done were really continually done, and not done before the signing of the original deed in March, 1638.

"The journey to Connecticut with Miantinomi to arrange the covenant of peace with Uncas was made in September or October, 1638. The journey to Apaum or Plymouth in behalf of the Indians was made after Williams came back from Connecticut" (*Narr. Club*, Vol. VI, p. 117).

"At the request of Canonicus, and Miantinomi, wampum was sent to the Massachusetts Colony, and also a gift from Wawaloam, the wife of Mi-

antinomi, was sent to Mrs. Winthrop." This in 1639. (*Narr. Club*, Vol. VI, p. 133.)

"I have dealt with Canonicus and Miantinomi to desert the Niantics in this business" (*Narr. Club*, Vol. VI, p. 138). This was in 1640.

"Arranged a visit by Miantinomi accompanied by Wawaloam to Massachusetts [Governor Winthrop] in 1640" (*Narr. Club*, Vol. VI, p. 140).

"Importuned by Ninigret to express in words his respect and love to your honored father." This in 1647 to Governor Winthrop of Connecticut, referring to his father, Governor Winthrop of Massachusetts. (*Narr. Club*, Vol. VI, p. 147.)

"Two days since Ninigret came to me and requested me to write two letters to Connecticut." This in 1648. (*Narr. Club*, Vol. VI, p. 159.)

In 1645 Williams acted as interpreter in the great crisis then existing. He visited the sachems when Benedict Arnold dared not visit them, at the moment when an army from the Massachusetts, and Plymouth, and Connecticut, and New Haven was about to march; by his skill and moderation he induced Pessacus and the other chief sachems to visit Boston, Williams going with them and acting as arbitrator. (*Knowles's Memoir*, p. 203).

"In 1648 war was again threatened; the Indians gathered in large force; but Mr. Williams visited them, allayed their fears, or anger, and peace was kept" (*Knowles's Memoir*, p. 218).

"In 1654 he writes that at his last departure for England he was importuned by the Narragansett sachems to present their petition to the High Sachems of England, that they might not be forced from their religion" (*Knowles's Memoir*, p. 273.)

There is another matter open to grave suspicion connected with these things. It may be noted that the last word in the interpolated clause is the word "river." Observe, this word river is in a different handwriting from the deed itself; it is written upon the original manuscript in the small, vacant space in the line next to the last and before the words "in witness." It was written there with intent to deceive. The purpose was to lead men to think that this interpolated clause was formerly in this place and had been lost while in William Arnold's hands. Note also that following the word "west" in the original manuscript a blank space is left nearly a half a line in length. Such a thing does not exist in any other part of the document and is of the utmost significance. It was so left because

the deed was ended there. The document was originally kept folded in quarto, and this is the reason why these central lines of folding were worn out by continual folding in this place. Now, then, consider, if this interpolated clause had been in this place in the document, this folding crease would have been in the middle of the phrase, and some portion of the phrase would have remained attached to either half. It is beyond belief to believe that every word of this clause would have been lost in Mr. Arnold's house.

It will be observed that in the memorandum at the bottom of the original manuscript the land on both banks of both the Pautucket and Pawtuxet Rivers, without limits, was said to be given for the use of cattle, but in the interpolated paragraph only the land on the Pawtuxet was granted. These things indicate with unerring precision the forgery. At the period, whenever it was when the memorandum was written — admit it to have been done in 1639 — the Massachusetts Colony had made no pretension to a claim to the lands north or northwest of the Pautucket; but in 1658, when the forgery was executed, the Massachusetts Colony had possession of all these lands, and in fact held

them until 1746, when, under a decree of the King of England, they were surrendered. Harris and his partners were far too adroit to interpolate into their "confirmation" deed from the Indians a foundation for those lands north and east of the Blackstone River, which Massachusetts already then had in her possession.

This deed consists of two distinct transfers of land. The first is *without any consideration* mentioned, but explicit in bounds. It is in these words: "Wee having two years since sold unto Roger Williams the lands and meaddowes upon the two fresh rivers Mowshausuck and Wanasquatuckett doe now by these presents establish and confirm the bounds of those lands from the rivers and fields of Pautuckett, the great hill Neotaconkonett on the norwest, and the towne of Mashapauge on the west." The second *has a consideration* mentioned, is totally distinct, and conveys the land "from those rivers reaching to Pautuxett river, as also the grass and meaddowes upon Pautuxet river." These bounds are in reality limited only by covering all the lands bordering upon any branch or source of this river, the entire Pawtuxet valley basin, covering, of course, the land at Ma-

shantatuck, which lands became an endless source of litigation. It is this latter clause which we claim to be an interpolation, a forgery. With the first clause only in the deed the memorandum below becomes a rational act, but, supposing the interpolation to be genuine, the memorandum below is an absurdity; instead of confirming and extending a grant already made and existing, it actually curtailed the original grant. This is inconceivable when the almost universal greed for land among the settlers is taken into consideration.

The circumstance of there being two versions of the original deed upon record — that of 1658 and that of 1662 — has been herein shown. The fact has been stated that the record of 1662 is a verbatim record of the original document as it now exists. Roger Williams was moderator of the town council in 1661–62, and was a member in 1662–63; hence he was knowing to this latter record. Can it be imagined that he consented to a "defaced" record, which deprived the settlers of nine tenths of his purchase from the sachems? It is a downright absurdity. If the record of 1658 consisted of the "*true words*," as the record itself shows, why four years later put on record a

fragment? And still more significant in making this record of 1662 a verbatim transcript, why was that singular word "*river*," which now appears on the original manuscript following the words "on ye west," omitted? Simply because in 1662 it was not there.

The memorandum on the bottom of the original deed is apparently signed by Roger Williams and Benedict Arnold. On page 48 *ante* it is shown that Roger Williams, according to his own declaration, had no hand in it; hence he never could have signed it. Since this was put into type the writer has seen a copy of a document filed in the court at Newport in the trial of the case there in 1679, by which it appears that Benedict Arnold declared under his oath that he did not sign the memorandum; hence both names were forgeries. This fact goes to strengthen the theory advanced herein (*ante*, p. 43), that Benedict Arnold would never have done a thing which would *abridge* in any way his landholdings.

V.

SOME OF THE POLITICAL CHANGES WHICH HAPPENED IN THE PROVIDENCE TOWN COUNCIL IN 1662–63 AND THEIR RESULTS.

WITH the election of the town council in 1663 came great changes in the management of the land question. Staples gives in the *Annals of Providence*, p. 654, the names of the members of the town council, beginning with 1664; but the names of the members of this council of 1663 are now clearly indicated. They were Thomas Harris, John Browne, Roger Williams, Thomas Olney, Sr., Arthur Fenner, Epenetus Olney, and Nathaniel Waterman. Four of these men were allied with Harris, or were, in fact, his partners; another, Fenner, married Harris's daughter Howlong. So it is fair to suppose that the Harris interest in this and in the preceding council was paramount. Now let us observe the action of these men. The four men above mentioned were Thomas Harris, Nathaniel Waterman, Thomas

Olney, and Epenetus Olney. At the same time another Harris ally was the recording clerk, Thomas Olney, Jr. (See *Early Records*, Vol. III, pp. 35 and 36, and for additional proof a manuscript by Harris now in the writer's possession.)

The town council ordered the Manton and Fenner fence taken down (alluded to elsewhere in the tract) and the land thrown open. This land was in the tract which Harris and his partners were about to claim (p. 18).

"It was ordered that the deeds which concern this Town shall be enroled in our Town Booke, and also shall be conveyed to the General Recorder (of the colony) to be enrolled in the General Records" (p. 18).

Three men were chosen to see where a convenient place for a town might be found about Wayunckeke; these men were Thomas Olney, Sr., William Carpenter (both Harris's partners), and John Browne (p. 18).

The council ordered that all lands which should be divided outside the seven-mile line should be by papers (deeds). All this vast territory was about to be claimed by the Harris partners (p. 20).

The council ordered that the twenty-five acre

men who still held the lands granted to them "shall be accomedated with a full right outside the seven mile line — equal with a purchaser paying to the confirmation." Two of the council making this order were themselves twenty-five acre men, to wit, John Browne and Epenetus Olney (*Early Records*, Vol. II, p. 30). This list appears at the place in the *Early Records* here indicated, but the order of the council to make the list does not appear until we reach the 125th page of this same volume. The "paying to the confirmation" above referred to has reference to a former order of the council in which John Sayles and William Harris were appointed to levy a rate (tax), that each man, whether "purchaser" or "twenty-five acre man," should pay towards the money lately "disbursted" for the "Confirmation of our Purchase" (*Early Records*, Vol. II, p. 127). All these lands were comprised in the territory about to be claimed by the Harris partners. Moreover many of the rights had already been acquired by these partners or by their friends.

The council made this extraordinary order: "No more lands for- home lots, or for any other purpose, lying between the rivers Pawtucket and Mo-

shausic, from fox hill unto the place where the third lake running into the Moshausic, should be granted to any man, any other law or clause therein notwithstanding unto the contrarey; and it is also ordered that this order shall not at any tyme be repealed unless it be with the unanimurse consent of the whole number of the purchasers" (p. 21).

The council ordered "that all the land on the west side of the Moshausick river which is not laid out unto any person, that is to say the land which formerly was prohibited, by an order made Feb. 7, 1658, shall from this day forward remain in common; and that it shall not be lawful for any person to lay out any of the said land unto any person; and this order to be in force all other former orders to the contrarey notwithstanding; and this order not to be repealed at any tyme unless it be with the unanimurse consent of the whole number of the purchase" (pp. 21, 22). All this land west of the Moshausic River was about to be claimed, and was claimed, by the Harris partners.

The council ordered "that a prohibition be sent unto John Wickes, Sr., Edmund Caverly, James

Sweate, John Sweate, Thomas Ralph and William Burton, warning them that they intrench not upon us in that land specified" (p. 24). These were the Mashantatuck lands, all claimed by the Harris partners and suits instituted to recover.

By this same council a deed given by Samuel Gorton of certain Pawtuxet lands was refused to be recorded (p. 26). The scheme of the conspirators was to cover all the lands purchased by Gorton and his companions.

By this same council it was ordered "that from this day (27 January, 1663) forward there shall not be any more people accomedated with land *as purchasers* within the bounds of the Towne; and that this order be not repealed without the full consent of the whole number of the purchasers" (p. 48).

Such were some of the preliminary steps which Harris and his partners took in the prosecution of their gigantic scheme.

Here first came into actual operation that principle, planted in the Constitution of 1842, that a majority, no matter how small, can enact a law which no other majority can repeal. Here four men in the town council undertook to enact — in

fact did enact — a law which one hundred men out of the one hundred and one (101) purchasers could not repeal. This principle prevails even to this day in Rhode Island.

A similar political change was wrought in the Colonial General Assembly, or Court of Commissioners, which was the legislative body. The Providence commissioners, six in number, comprised five of the Harris party, led by William Carpenter and William Harris, the same who had procured the recording of the forged deed. The chief act of this session was the enactment of a landholding law. It was, in fact, the earliest complete methodical law upon the subject. The loose way in which individual landholding had been managed, the lack of written evidence by deeds or otherwise, is vividly set forth; in fact, the law is of sufficient general interest to make it worth while to print it complete. (*R. I. Col. Rec.*, Vol. I, p. 475.)

VI.

A CONDENSATION OF THE METHOD OF DEVELOPMENT OF THE CONSPIRACY FROM 1638 TO 1663 AND THE REAL BEGINNING OF THE GREAT STRUGGLE FOR THE POSSESSION OF THE LAND.

1. THE thirteen first proprietors became joint owners in the original purchase by deed from Roger Williams in 1638. 2. On the 8th October, 1638, these first proprietors deeded to themselves all the Pawtuxet lands west of a line afterwards to be established. Newcomers were not admitted into this ownership. 3. In 1640 an attempt was made to run out this line of separation; the location of the line then failed, and, although attempted later, the line was never laid down. 4. These acts made the Pawtuxet proprietors absolute owners of all lands west of this line. 5. Now, in case these Pawtuxet owners could show that all the lands in Rhode Island west of this line were included in the original deed to Williams, then these lands would belong

to them. 6. Their plan then was to get upon record the original deed with the interpolations as herein pointed out. This was accomplished in 1658. 7. In 1659 these men obtained from the young sachems then living three deeds so drawn as to *confirm* the original deed as recorded with their interpolations, but these deeds were not placed upon record until 1662. 8. Thus in 1663 the situation was complete. The town had placed upon record a deed covering all the land in Northern Rhode Island and three other deeds *confirming* this view. 9. For the purpose of getting behind the John Greene and Gorton (Showomet) purchases, which were made in 1640 and 1642, respectively, the conspirators affixed the date 1639 to the memorandum at the bottom of the original deed as recorded, notwithstanding the original document has no such date. 10. Thus William Harris and his partners attempted by fraud to found an underlying title to all the lands in Northern Rhode Island.

The original deed to Williams from Canonicus and Miantinomi bears date, "24th of the first month, commonly called March, in the second year of our plantation." This deed was written

upon a sheet of paper upon the bottom of which there was a broad, unoccupied space. In this space this memorandum now appears. When it was written there nobody knows, for the date 1639, which appears in all the histories as being upon it, *is not upon it.*

The artfulness of this date, or lack of a date, is apparent. Williams's original deed from the Indians was March 24, 1638. March was the *first* month in the year. Mr. Williams's deed to the Pawtuxet purchasers was 8th day of 8th month (October), 1638. By omitting the year and inserting 3d month (May), 9th day, an inference was created that the date of the memorandum was, so far as the year was concerned, the same as the deed, and that the "confirmation" to Williams would appear to have been given *before* his grant to the Pawtuxet partners. Twenty years later the conspirators boldly but fatally inserted the year 1639.

Soon after Williams had obtained in his individual right the Indian title he wrote a "memorandum" admitting the twelve men then with him into the purchase, who with himself made the thirteen first proprietors. This "memorandum"

has come to be known as the "Initial Deed," for the reason that the names of the grantees are expressed only by their initials. This document is *undated*, but in 1666 Mr. Williams was asked to reëxecute this "Initial" deed, and did so. This reëxecuted copy has the names written in full, and bears the memorandum, "This paper and writing given by me about twenty-eight years since, and differs not a tittle, only *so is dated, as near as we could guess, about the time.*" The date is the "8 of 8th month, 1638." The utmost importance attaches to these dates, for which reason I am endeavoring to fix them firmly in the minds of my readers.

Precisely on this day Williams had executed an "Agreement" whereby he sold to the identical first proprietors "all the meadow ground at Pawtuxet." The grantees under this deed, or their successors, became the Pawtuxet partners. Chief Justice Staples, in the *Annals*, p. 577, points out an error in this "Agreement," either in the date or in the body of it, to wit, the money, £20, was to be paid to Williams "by this day eight weeks, which will be the seventeenth day of the tenth month." Eight weeks would expire on the third

day of the tenth month, and on that day Williams was paid, as Mr. Hopkins, in his *Home Lots*, p. 12, says, twelve thirteenths of the sum, but twelve thirteenths would be £18-9-3, while the document itself says Williams received £18-11-3. This must indicate another error.

On the 27 July, 1640, a line of separation between the Pawtuxet purchase and the "Grand Purchase of Providence" was agreed upon. All the lands which came to Williams under the first deed which lay west and northwest of this line would then vest in the Pawtuxet purchasers.

Early in the year 1642 came the purchase of Showomet, now Warwick, by Samuel Gorton and his associates, and earlier still, but in the same year, the purchase by John Greene of the lands known as Occupasnetuxet, which became the home of the late Governor John Brown Francis.

Encroachments began very early upon the Indian lands at Pawtuxet. As early as 1642 the Indians claimed that the Pawtuxet settlers had occupied and built upon lands which had not been purchased. (*Simplicities Defence*, 1646, p. 14.)

Then follows the outrages of Massachusetts in her attempts to exterminate Gorton and his fol-

lowers and get possession of their lands, assisted in her efforts by William Arnold and a few fellow conspirators, who dwelt at Pawtuxet and were of the Pawtuxet partners.

At some period between these years and the year 1658 was concocted by William Harris and his associates this gigantic plot, which was to come so near to the destruction of Rhode Island.

The first step was the appearance of William Arnold, one of the conspirators, at "our Town Court," on the 7th April, 1658, with the statement that the "writeing called the towne evidence," which was Mr. Williams's original deed from the Indians, "was torne by accident in his house at Pawtuxet," and suggesting that William Harris, another conspirator, had in his possession a true copy of the original, which Mr. Arnold desired might be entered upon the records of the town, and it was so recorded. Now appears for the first time the date 1639. It came on this Harris copy. This date was made to follow 1638, for the reason that it could not precede it, and it must precede the date of the John Greene and Gorton purchases, so as to include them both

within the vast tracts which it was the intention of the conspirators to claim.

The mutilation of the Indian deed as stated by Arnold is true. It still exists, but whether mutilated by design or accident no one knows. Fortunately the place in the deed where 1639 should be is unmutilated; hence the argument cannot be made that this date might formerly have been there and been torn off.

From this record of the Harris copy Chief Justice Staples obtained the 1639, and all other writers have followed him.

The next step was to claim all the lands for the Pawtuxet partners which lay along and within the Pawtucket and Pawtuxet Rivers and their tributaries to their sources "up streams without limits."

This claim was denied by Mr. Williams, and fought with the utmost determination by the Providence proprietors and by Mr. Gorton and his associates in the Showomet purchase, and by John Greene for his purchase of Occupasnetuxet, as well indeed they might, for their existence depended upon its defeat.

This extraordinary claim of "up streams with-

out limits," Mr. Williams says, "was a courtesy requested and granted, that, being shortened in bounds by the sachem because of Indians about us, it might be no offence if our few cows fed up the rivers where nobody dwelt and home again at night" (*Narr. Club*, Vol. VI, p 390).

Mr. Harris and his fellow conspirators claimed that Mr. Williams did not himself know the scope of his first purchase (notwithstanding the fact that Miantinomi had personally with them set the bounds thereof), and in proof of the fact, and that their construction of the meaning of the phrase was the correct interpretation, three new deeds were produced given by the Indian sachems then living. They were so drawn as to include all the lands which I have indicated. These three deeds bear dates as follows: "3rd month, 29th day, 1659," "6 month, 13 day, 1659," and "this first of December, 1659." They were held by Harris in his own possession, and not recorded until 1662, a period of more than three years, notwithstanding the town was the owner. The Harris partners had obtained political control of the town council when the deeds were recorded. They were called by Harris and his fellow con-

spirators "Confirmatory," the reason for which is quite apparent. Here are the deeds:

Providence the 3 month, 29 day j659:

This be knowne: to all that it May concerne in all ages to Come

That I Caujaniquanet Sachim of the Nanhiggansick; Rattefie and confirme to the Men of providence and the men of pautuxett theire landes and deede that My Brother Meantenomeah, Made over and Signed: | to them | Namly all the landes betweene pautuckett River and pautuxett River up the Streames Without limittes for theire use of Cattle, as I also doe for Sumer and Winter feeding of theire Cattle; and plowing and all other Nessesarey Jmprovement, as for farmes, and all Manner of plantation whatso Ever; This Land I Say abovesaid I confirme to the aforsaid Men at this presant, Twenty full Miles, begining to Measure from a hill Called ffoxes hill, upon A Straight line running up into the Contrey betweene pautuckett and pautuxett River; This Land and the appurtenances I here by Confirme to them theire heirs And Assignes for Ever: And that my heirs And Assignes, Shall not Molest them nor theire Assignes for Ever, in any of the Landes Above Said; And that I am alway ready to defend theire Title from the Claime of any Indians whatso Ever; in wittnesse whereof I hereto Sett my hand.

This deed was witnessed by Nathaniel Waterman, one of the Pawtuxet partners, and Andrew

Harris, a son of William Harris, the arch conspirator.

For pautuxett and providence y^e^ 6 m^th^ y^e^ 15 day j659:

This be knowne to all after ages upon any just ocation, that we Caussuckquansh and Nenekelah cheife sachims over the Jndeans in these partes of the Countrey, Ratteffie and confirme to the men of providence and the men of pautuxett theire landes according to theire joynt agreements, which our Brother Miantenomeah possesed them with: That is all the landes betweene pautuckett and pautuxett betweene the streames of these Rivers, and up the streames without limittes, or as farr as they shall thinke ffitt; These land and the apurtenances we confirme to them, in and for good consideratione to them, their heirs and Assignes for Ever: Never the lesse it shall not be lawfull for the aforesaid men to remove the Jndians that are up in the Countrey Except they shall sattisfie those Jndeans and so cause them to depart Willingly neither shall any of those Jndians sell any part of the said landes to any men what so Ever, only it shall be lawfull for those Jndians to receive som recompence for theire removeing (if they see Cause) of the aforsaid Jnglishmen of providence or pautuxett according to their joynt agreements: Also we bind our heirs and all Assignes for Ever not to molest the aforsaid men, nor theire heirs nor Assignes upon any of the aforsaid landes for Ever.

The witnesses to this document were Richard and James Smith, at what is now Wickford.

The deed of Scuttape and Quequaganenet:

These beare wittnesse to all ages to come to such as are conserned that we Scattappe and Quequaqunnuette sons to Meakcaw, son *to* Qunnaune called by y^e^ English Qunnounicusse Vnkle to meantenom*e* who made a leauge of peace with the English in the Masachussett*s* for all y^e^ Jndians in these partes in the time of the peaquitt warrs w*ith* the English: This our Grandfather and Cousin cheife Sachims granted *to* Roger Williams, agent for the men of providence, & y^e^ men of pautuxet*t* a tract of land reaching from pautuckett River to pautuxett River, all y^t^ land betweene the Streames of those Rivers, & up those Stream|e|es without limittes for theire use of cattle did they grant to y^e^ men abovesaid y^e^ men of providence & y^e^ men of pautuxett to whome wee Establish y^e^ landes aforsaid up the Streames of those Rivers & conffirme without limittes, or as farr as y^e^ men abovesaid of providence & of pautuxett shall judge convenient for theire use of cattle, as ffeeding plowing planting & all manner of plantatione what so Ever, wee say all the landes according to y^e^ limittes abovesaid we Establis*h* & confirme to y^e^ men of providence & y^e^ men of pautuxett according to theire joynt agreements in y^e^ most absolute tenure of free simple to them theire Heirs and Assignes for Ever & hereby bind our selves our heirs & Assignes not to Molest nor trouble y^e^ men abovesaid in y^e^ full injoyment of y^e^ land abovesaid; Never the lesse it shall not be lawfull for the men abouesaid to remove y^e^ Jndia*ns* y^t^ are up in y^e^ countrey from theire fieldes without y^e^ Jndeans consent

& content; nor shall it be lawfull for any of those Jndeans to sell any of y^e^ land abovesaid to any; only it shall be lawfull for them to take of y^e^ men of providence & y^e^ men of pautuxett according to theire joynt agreements sattisfaction for theire removeing; And as wee have Established to y^e^ men abovesaid y^e^ land & deede granted by our grand father & Cousin so doe wee also confirme y^e^ grant of Confirmation by our Cousins Cussuckquansh, Caujanaquant, & Nenekelah.

Witnessed by the Smiths, at Wickford, and by William Dyre. These Smiths were beyond the reach of the "up streams without limits" clause, and so too was Mr. Dyre.

Concerning these deeds Mr. Williams says: "The sachems signed them not imagining any such juggling to be intended by Englishmen, and that boundless grants were comprised; they were easily willing (especially for wampum sake) to *confirm what was granted to Roger Williams* by Miantinomi (dead and gone)" (*R. I. Hist. Tract*, No. 14, p. 32).

These three deeds were undoubtedly drawn by William Harris, and in point of eccentricity are without parallels in Rhode Island history. They are attempts to give legal constructions to a document written by a civilized white man a quarter of a century before, and then living, executed by

barbarians who could neither read nor write, by other barbarians in the same condition.

Scuttape declares that Roger Williams was the *agent* in his purchase for the men of Providence and the men of Pawtuxcett. What did this Indian know of the English principal and agent? And if Williams was actually the *agent* of these men, why did they buy of him and pay him for what he purchased as such agent?

On this point of agency let me suggest this record left by Mr. Williams:

"William Harris, pretending religion, wearied me with desires that I should admit him and others into fellowship of my purchase; I yielded and agreed that the place should be for such as were destitute, especially for conscience sake, and that each person so admitted should pay thirty shillings, country pay (that is, produce), towards a town stock, and myself have thirty pounds. Pawtuxet I parted with at a small addition to Providence, for then that monstrous bound or business of up stream without limit was not thought of" (*R. I. Hist. Tract*, No. 14, p. 55).

As confirmatory deeds they are pure absurdities. An Indian to confirm must understand that

which he confirms, which these Indians could not do. How could they interpret deeds?

In the case of the original purchase Miantinomi walked personally over the entire bounds of the lands he sold to Williams.

These men were seized with a "*confirmation*" craze. First, they make a *memorandum* in which they undertake, in their own names, to "*confirm*" a grant which an Indian sachem had not before and did not then grant; and this unique endeavor they follow with a parcel of deeds "*confirming*" the *memorandum*, which they had attached to the original deed and had themselves dated to suit their scheme.

Before obtaining these "confirmatory" deeds Harris and his fellow conspirators applied to the General Assembly to buy a little more land. The General Assembly granted permission, but *not* to the Pawtuxet partners. The law (*R. I. Col. Rec.*, Vol. I, p. 418) authorized the *Providence* men "to buy out and clear off Indians within the bounds of Providence as expressed in the town evidence (original deed), and to buy a little more land, in case they wish to add, seeing they are straightened, *not exceeding 3000 acres* joining to their township."

Mr. Harris and his partners then immediately obtained the "confirmatory" deeds covering more than 300,000 acres, an act entirely without warrant under the law.

These "confirmatory" deeds confirmed, if they confirmed anything, the "memorandum of 1639," as it has come to be called. This memorandum, *not an act* of Miantinomi, pretends to confirm a deed of that sachem's, to which it was attached, and to enlarge the privileges which that previous deed conveyed. The only grantee in that previous deed was Roger Williams; hence these "confirmatory" deeds were confirmatory solely to Roger Williams, and since Williams sold to the Pawtuxet purchasers in 1638, and these new privileges did not vest in him till 1639, and were "confirmed" by these three deeds in 1659, it is apparent that the Pawtuxet purchasers had not even the shadow of a legal claim under either the memorandum or under the "confirmatory deeds."

On the 27th April, 1660, the town meeting "ordered that John Sayles and William Harris shall state the matter concerning the payment of the money lately disbursted for the confirmation of our purchase and these aforesaid two men shall

levey what every man shall pay for his share of, both purchasers, and five and twenty acor men" (*Early Records*, Vol. II, p. 127). Thus the newly acquired lands were paid for by a general tax upon the inhabitants of Providence.

Then followed the struggle within the colony before the local courts and in the General Assembly, but here Mr. Harris made no progress. He attempted politically to accomplish that which judicially he had failed to accomplish, by electing controlling majorities in the town council and in the General Assembly. Had he succeeded with the latter of these bodies he would have accomplished his ends, for the General Assembly was then the court of last resort in the colony.

Failing here, Mr. Harris and his partners appealed to England, himself making four voyages. As a result of his second voyage he obtained an order from the English Government establishing a court to be appointed by the governors of the four New England colonies, to wit, Massachusetts, Plymouth, Connecticut, and Rhode Island, but concerning the travel of the case must be the subject of the coming chapters.

VII.

THE LEGAL STRUGGLE BOTH HERE AND IN ENGLAND ON THE PART OF THE HARRIS PARTY.

In the former chapters the grounds upon which this suit rested were stated and their wickedness demonstrated, and it was stated that the defenses against the suit here in Rhode Island had been successful. But Mr. Harris devised another scheme. He went to England and laid a petition before the king. It was in August, 1675. The petition was referred to the Board of Trade, and by this board reported back to the king for favorable action, and a royal order granting Harris's petition was issued. This proceeding was *ex parte.* Mr. Harris petitioned for the creation of a court or commission of eight judges, two of whom should come from each of the four colonies, to wit, Plymouth, Massachusetts, Connecticut, and Rhode Island, assisted by a jury of twelve men, two of whom should come from Plymouth, four from Massachusetts, three from

Connecticut, and three from Rhode Island. The governors of each of the colonies were to appoint the judges, each for his respective colony, and the judges appointed the jurors. Setting aside for the present the rottenness of the foundations of this suit, let us for a moment consider the construction of this court in relation to the parties and to the questions at issue.

Plymouth had seized and then held possession of all the lands and towns on the eastern shore of Narragansett Bay in violation of the charter of 1663. Rhode Island did not regain possession until 1746.

Massachusetts had received the cession of the jurisdiction of the lands and of certain inhabitants of Pawtuxet. One of these persons was Benedict Arnold, who signed the pretended "confirmation" ascribed to Miantinomi, attached to the original deed to Roger Williams; another was William Carpenter, who was with Harris and one of the principal owners engaged in this suit. From an original document written by Harris it appears that this Carpenter, Harris himself, Thomas Field, and Nathaniel Waterman owned eight of the ten shares in this claim, or, as Harris wrote

it, "rights of that land of Pawtuxet, sued for, recovered, and to be possessed of." Under this cession Massachusetts had undertaken to exterminate Mr. Gorton and his settlement, and Mr. Greene and his plantation, but she had thus far failed in her efforts, as she had also with her intrigues with Pomham and his Indians concerning these very lands.

Connecticut, by virtue of a clerical error in her charter, which antedated the Rhode Island charter, claimed all the lands of the Narragansett country, subsequently called the King's Province, to the shores of the bay and northward to and including the lands leased and held by the Smiths, at Wickford, who were witnesses to two of the "confirmation" deeds. Mr. Harris was at this time in secret league with Connecticut and acting as her agent in England in pushing these claims against the Colony of Rhode Island. Such was the prejudiced condition of the judges in this court devised by Harris and ordered by the king. As I have before stated, nine of the twelve jurymen came from these same colonies. Rhode Island seemed doomed to destruction. These colonies wanted jurisdiction over the lands of Rhode

Island. Hitherto they had failed to acquire it. Here they saw a quick and easy way, and they determined to profit by it. This court, although ordered in 1675, did not meet prepared for business until October 3, 1677, in Boston. It then adjourned to meet in Providence November 17, 1677, and four days later the jury rendered their verdicts, which were accepted by the court, and the jury was discharged. There were five cases brought by Harris and his partners. Who these partners were was a carefully kept secret at the time, but two years subsequently Mr. Harris was obliged to disclose their names, which are given above. One of the cases was against "ye land called Warwick" and three against private parties. The declarations in the cases against Warwick and against two of these private parties (the original manuscripts written by Harris) are in the writer's possession. These declarations have never been published. Judge Staples gives (*Annals of Providence*, p. 583) a short extract from one, but in giving it he makes a singular error. Thus he says: "Whether the said town of Providence should not with us run the line agreed on." But the declaration actually reads: "Whether ye s'd

tresspassers and tenants by force should not run ye s'd line with us," etc. It was upon this precise point that the case was saved to Rhode Island, as will be made to appear later in these papers. No part of the declaration in the case against Warwick has before been printed. Nevertheless it is so peculiar in character, taken in connection with the other one, that it will attract the attention at once of every legal mind. By the reference to Canonicus and Miantinomi Mr. Harris gave away his case. I commend the careful study of these two declarations to all those interested in Rhode Island history.

Declaration in the case Pawtuxet partners vs. John Greene and the Town of Warwick.

To his Majestyes Courte siting by virtue of his Majestyes order bearing date at Hampton Court ye 4th of August 1675 & 27th year of his Majestyes Reigne for ye hearing & Determining Differences as to patuxet at providence in the Collony of Rhode Island & providence plantations &c ye 17th of November next. The Complaynt & Dimand of Thomas ffield & William Harris both of patuxet & providence in ye Collony aforsd against ye Towne of Warwick & ye purchasers of ye sd land called Warwick And against Captayne John Green, Senior, And Mr Samuell Gorton, Junior, both of ye

Towne Councill of ye sd Warwick in ye foresd Collony tenants by force wherfore they ye sd Captayne John Green & Mr Samuell Gorton & ye rest aforsd under pretence of right & title to landes on ye northward syd of patuxet River & under pretence of a grant therof from meantenomy one of ye Narraganset Sachems of later date have entered upon ye lands of patuxet at & about Toskaunkanst & therabouts & at or neer a place called by ye Indians Natick, or Nachick, on ye northward syde of ye longest streame & maynest branch of patuxet River, to ye southward of a line yt is to Divide between ye lands of providence & ye lands of patuxet & to ye eastward or below a place or pon called penhungganset boundes of patuxet wherin are the proprietyes of ye Complaynants & Demandants which they hold by virtue of a grant from Conounicus & Meantenomy chiefest Narraganset Sachems both ye oldest and ye sd grant of ye moste antiente date on & into which ye sd tenants by force entered in July & August yearly for more than seven years since & before & then have taken of from ye proprietyes of patuxet wherin are ye proprietyes of ye complaynants & Demandants more than five hundred load of hay by force —— —— us of our rights & profits to our Damage of one hundered pound sterling commiting Divers enormetyes allsoe as well against ye publique peace & many wholesome lawes against such entryes which forceth us to bring our action of trespass of ye sd sum to this honnored Court And doe make our Demand of ye sd land & pray Justice in ye sd case commiting this issue to ye good country who hath ye best & truest title to ye sd lande, us ye complaynants

& Demandants (acording to our proportions) on ye sd entered and tenants by force. In behalf of thomas ffield his Atorny & in my owne behalf Complaynant & Demandant this 11th of octob 1677 & twenty & ninth year of his Majestyes Reigne

William Harris

And ye Complaynants & Demandants say they will leave ye Declaration of theyre sd case with ye honnored Captayne peleg Sandfoord Commitioner one of ye sd Courte yt ye sd tenants by force may have coppeyed (but not ye originall) by order of ye commitioner If they pleas & leave theyr answer, the originall to be returned to ye Court. Soe prayeth

William Harris

And we pray (ye complaynants & Demandants) yt ye summons to ye tenants by force may have ye wordes of our complaynt & Demand therein

The name of the Indian locality above (Toskaunkanst) is the manufacturing village now called Pontiac.

Declaration in the case Pawtuxet partners vs. Gregory Dexter and Arthur Fenner.

To the Kings Majestyes Honnored Court siting by virtue of his Majestyes order bearing date at Hampton Court ye 4th of August 1675 & twenty seventh year of his Majestyes Reigne for ye hearing & Determining Dif-

erences as to patuxet at providence in ye Collony of Rhode Island & providence plantations &c ye 17th november next.

The Complaynt & Demand of Thomas ffield & William Harris of patuxet & providence in ye foresd Collony Agaynst Mr Gregory Dexter, Captayne Arthur ffenner of providence in ye sd Collony & against ye Towne of providence tenants by force; Wherfore they ye sd Gregory Dexter & Captayne ffenner have for ye space of five or six years paste themselves Denyed, oposoed, hindered & prevented with their partty or faction under ye name of a towne (to say) of providence the running of a line between patuxet River & wanasquetucket River of an equall or even Distance & then equally alike as high upward in to ye Country as a place or a pon called penhungganset ye most westward bound about twelve miles from ye moste Eastwardly bound set at providence for yt ye sd line was agreed on betweene ye towne of providence and ye men of patuxet for ye Dividing betweene ye lands of providence and ye lands of patuxet but hindered as aforsd to ye complaynants Damage ten pound sterling. The sd tenants by force Gregory Dexter & Captayne ffener & ye sd towne of providence thereby entering upon ye sd our lands of patuxet on ye northward syde of patuxet river of ye longest streame & maynest branch ther of & on ye Southward syde of ye sd line that should be run as aforesd under pretence of title there they cast us out, by ocasion wherof we ye complaynants & Demandants have bin put to many troubles & Damages, often warned to meet with ye sd towne & demanded yt we

(they said for peace) would relinquish some of our clayme to ye sd lande of patuxet as if satisfied; we should have noo peace except we did fourcing as favour peace & safety, for a remedy of ye sd wrongs & such others, haveing noe other way of remedy here (by reason of many factions made) we were fourced to goe to England to petition to ye Kings Majesty to our great cost and charge, therefore we are fourced to make our complaynt to his Majesteys sd Court apoynted by ye King to hear ye sd Differences & command our sd action of trespas against ye sd trespassers & tenants by force of ten pound sterling & make our Demand of ye sd land, they having done us many wronges & commited many enormetyes as allsoe agaynst ye publique peace & many good & whole some lawes; agaynst such entreys & for partition in such case, and we commit to ye good country this issue whether ye said trespassers & tenants by fource should not run ye sd line with us ye sd complaynants & Demandants (to say) betweene ye rivers wanasquetucket & patuxet of or at an equall or even distance & equally as high upwards into ye Country as a place or pon called penhangganset ye moste westwardly bound about twelve miles from ye moste Eastwardly bound set at providence & who hath ye best right & truest title to ye land on ye southward syde of ye sd line, ye sd tenants by fource or us ye complaynants & Demandants acording to our proportions. In behalf of Thomas Field his attorny, and in my owne right complaynant and Demandant, this 13th Octob 1677 & 29th year of his Majesteys Reigne.

William Harris.

The complaynants & Demandants will leave theyre Declaration with Captayne peleg Sandfoord one of ye sd Commitioners that ye tenants by force (If they pleas) by his order may have coppyes thereof.

Judge Staples in describing the character of Mr. Harris says: "No one from reading his arguments would hesitate a moment in determining that he was never educated as a lawyer" (*Annals of Providence*, p. 588). Were there any doubts on this point these two declarations would settle them. No lawyer could have ever in his declaration made the averment that the claim to Warwick rested upon a grant different from the claim to Providence. Nevertheless Mr. Harris declares that his claim to Warwick rests on a grant to him and his partners from Canonicus and Miantinomi. It is here suggested that the only grants of land by these two sachems are two — first, the grant to Roger Williams, the original deed; and second, the grant to the Aquidneck settlers.

The case against Dexter meant the Smithfield lime rocks; the case against Fenner meant the "Fenner" house, near what once was Simmonsville.

The cases, five in number, went to the jury, and a verdict in each case was rendered for

Harris. They were special verdicts. The running of a dividing line in exact accordance with the request by Harris in his declaration was placed by the jury upon the town of Providence, but the specific way in which the line was to be run, as prescribed by the jury, was such that it was impossible to run it. Nevertheless the court accepted the verdicts and discharged the jury. Seven months later, to wit, June 19, 1678, the court met in Providence and issued a very extraordinary document. It was in the nature of a summons or citation to this extinct jury. The original document, signed by Thomas Hinckley, president of the court, is in the writer's possession. This presiding judge (from Plymouth) avers that the jury were "by reason of ye cold season then prevented to goe on the sd lands in controversy, and not having a perfect draught of the sayd lands, whereby you might have beene in better capacity to have given a particular, plaine, distinct determination of those cases then committed to you, which now according to ye termes of the verdict given by you are exposed to divers and dubious interpretations touching a thwart line from the head of Woonasquatucket river directly

running to Pawtuxet river, whereby noe quiett settlement of the lands in controversy is like to be obtained." Thereupon the court adjourned to October 1 next ensuing (1678), and ordered this extinct jury to meet with it in Providence on that day, and "then and there to explaine what they mean by thee Thwart line, and what by ye head of the river," etc. Mr. Presiding Justice Hinckley endeavors to sustain this extraordinary action of the court by a citation of the statute of Westminster, 13 Edward the First, 25.

This statute was enacted A.D. 1285 — four centuries before. It is one of upwards of forty enacted in that year. There is nothing in it nor in either of the other chapters which can by any conceivable perversion of terms be twisted into a support to this outrageous act of the court and Judge Hinckley. There is in the inventory of Harris's effects this entry: "*Ye statute of poulten.*" This was *Poulton's Statutes at Large*, and was possibly the only copy of the English statutes then in Rhode Island; hence the difficulty of exposing at once the fraud in this reference.

Happily I am able to cite a decision which completely overthrows the position of the court.

It is a case reported in the 2 Croke, 210, before the King's Bench, 6 James, 1, A.D. 1608. The court, Chief Justice Fleming, and Sir Edward Coke held clearly "that the jury once having given their verdict, although it be imperfect, shall never be sworn again upon the same issue." That was the law of England, and was controlling to this court.

The court met. The three Rhode Island jurymen declined to act, filing with the court their reasons therefor, "because at the courtt of trials held the seventeen day of November last past (1677), wee then and there did with the rest of those which were jurymen, upon oath, bring in a verdict, wherein the Honourable Commissioners accepted thereof, and gave us a full discharge, and we therefore could not upon the former engagement act as jurymen now." This account differs materially from that given by Judge Staples (*Annals of Providence*, p. 585), but it is an accurate (*vera copia*) copy of the document filed with the court. The nine other jurymen, all of them from the outside colonies, and all fighting for the Rhode Island lands, explained the meaning of the verdict which the twelve had returned,

as Staples says, "to be as the court had previously declared it, and as the plaintiff claimed." It is quite apparent that under such a state of affairs nothing could be accomplished by Harris. Thereupon he wrote his will, executed it December 4, 1678, declaring in it his intention "to saile over ye greate and wide sea to England." But before Mr. Harris's arrival in England John Greene in behalf of himself, and associated with Randall Holden in behalf of the town of Warwick, had reached England and procured an order in council from the king. It was dated January 2, 1678–79. The purpose of this order was to stay the execution of the second verdict, to wit, the one against the town of Warwick and against John Greene. These are its words: "That the inhabitants of the towne of Warwick should not be disturbed in the quiet possession of the said lands, and that all things relating thereunto should remain in the same state they were in before the meeting of the commissioners, until William Harris and partners should before his Majesty in councill make out a sufficient title thereunto." Holden and Greene took exceptions to the colonies of Massachusetts and Connecticut

on the ground of past efforts on the part of both colonies to get away their lands. Scarcely had Holden and Greene left England after obtaining this satisfactory arrangement than William Harris appeared in England at court and set himself at work to overturn the arrangement. He took exceptions to the colony of Rhode Island as acting in the case "as being particularly interested in the controversy," and "that by reason of the distance of places and absence of the parties, it will be a matter of too great difficulty for your Majesty to give such judgment therein as may equally decide their respective pretentions." In consideration of these views the king reversed his order to Holden and Greene, and referred the matters relating to Warwick and John Greene, under the second verdict, to the governor and magistrates of Plymouth. As to the other verdicts, the governor and magistrates of Rhode Island were ordered by the king to put Harris in quiet possession within three months after the receipt of this his Majesty's command. This order was transmitted to Rhode Island by the Earl of Sunderland. It was dated July 9, 1679, and was received September 20 following. For the author-

ities in the preceding statements the reader is referred to *Mass. Hist. Coll.*, 4th series, Vol. II, p. 290. A true copy of the Earl of Sunderland's letter is in the writer's possession.

Mr. Arnold (*Hist. R. I.*, Vol. I, p. 463) says that Governor Winslow summoned the parties interested in the second verdict (Warwick), and after a full hearing confirmed the action of the court of commissioners in favor of Harris October 28, 1679. This Governor Winslow was Josiah, not Edward, but a son of Edward. He was born at Plymouth in 1628 or 1629, and probably derived his legal knowledge from studies in the colony. If we admit that he possessed judicial knowledge, what becomes of his judicial integrity? His decision was a travesty upon justice.

Mr. Harris had in the meantime made a demand upon the governor and council of Rhode Island for that possession which the king had ordered. The governor met this demand by requesting Harris to point out "where the said lands are that are to be divided, or which they be," and informing Harris that the town of Providence "denyed the said line to be run," and demanding the names of the partners of Harris, to

whom with himself delivery was to be made, and upon receipt of Mr. Harris's answer an officer was agreed to be sent. Mr. Harris's answer is so historically valuable that it is here printed entire:

Whereas the Kings Majesty Charles the Second &c hath been graciously pleased to grant his Order as to fair trial of the true title of lands called Pawtuxet between the proprietors of Pawtuxet, to say, William Harris and partners Complainants, and Demandants, against John Harrold (or Harrud), Roger Burlingame, Thomas Relf (or Ralph, or Relph) and others tenants by force at Mashanticut &c detaining the same being lands of Pawtuxet, and Edmund Calverly & others, and John Towers of Hingham &c, and Gregory Dexter & others, as to a line agreed on long since, to which the said Gregory Dexter & others subscribed to perform but did not; and trial having been had and verdict and judgment being given for the proprietors of Pawtuxet, and His Majesty having required possession to be given, and it being demanded of the Govenor and Counsil of His Majesty's Colony of Rhode Island, and Providence Plantations, where the said lands are, that are to be divided, or which they be. As to Gregory Dexter and others calling themselves the Town of Providence &c under that name denyed the said line to be run at an equal distance between Wanasquatucket River and Pawtuxet River; and demanded who are my partners in the said lands sued for recovered and possession required by His Majesty to be given. My answer to the

Governor and Council who say they will send an officer to put us in possession is That if ye said officer come to the house of William Carpenter (of and at Pawtuxet) there will I, God giving me ability, meet the said officer, with Thomas Field, and Nathaniel Waterman, we the said persons having eight parts, or rights of that land of Pawtuxet sued for, recovered, and to be possessed of, (the whole containing ten parts, above, or to the westward of Pocasset river) which said lands and lines are approved in the return of his Majesty's Governors to His Majesty, which said lands we shall show to the said officer when sent to give us possession thereof; and shall show him the lands we recovered of John Towers and the lands we recovered of John Harrold (or Harrud) Roger Burlingame, Thomas Relf (or Ralph, or Relph) and others, and Edmund Calverly and others; and (if our adversaries doe not hyd themselves) we will show them to the said officers to satisfy the cost and damages &c; but as to those whose names of Providence I have already given in (to say)

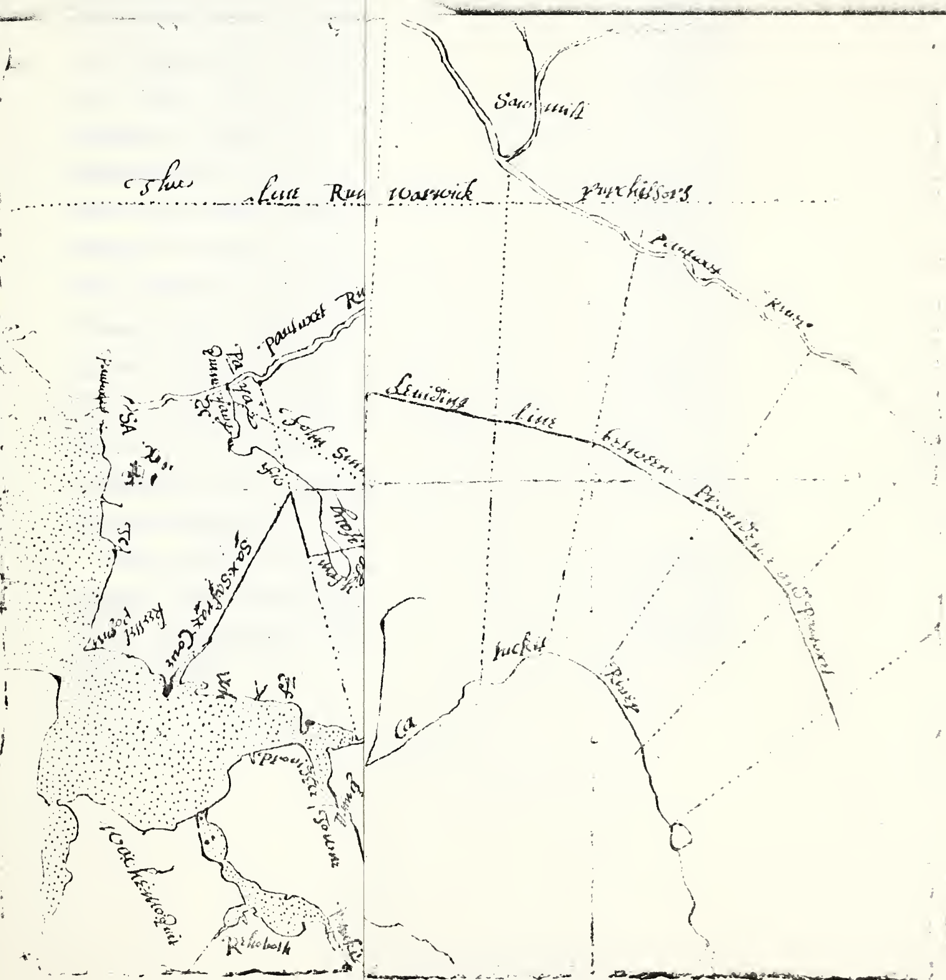
Nathaniel Waterman	Andrew Harris
Thomas Harris	John Whipple
Thomas Harris, Sen'r	William Carpenter
Samuel Whipple	William Vinson
Joseph Williams	Eleazer Whipple
Joseph Reynolds	Benjamin Whipple
Richard Arnold	Thomas Olney, Sen
John Whipple, Sen'r	Thomas Field
Valentine Whitman	Epenetus Olney
Thomas Olney, Jun'r	

That did not refuse to run the said line whereupon the damages and costs was awarded and judged, we will not show their cattle, nor —— —— them for costs and damages that denied not our rights, nor we sued them, nor they, but Gregory Dexter and his party defended the wrongs, they only did us. And as to the cost and damages to be executed on John Towers of Hingham; the Governor of the Massachusetts and others have made me so fair promises thereof that I am so satisfied therewith, that I shall obtain it, that I do in my own, and for said partners behalf wholly excuse your selves from doing any thing therein, yourselves had accepted the same already, on your part.

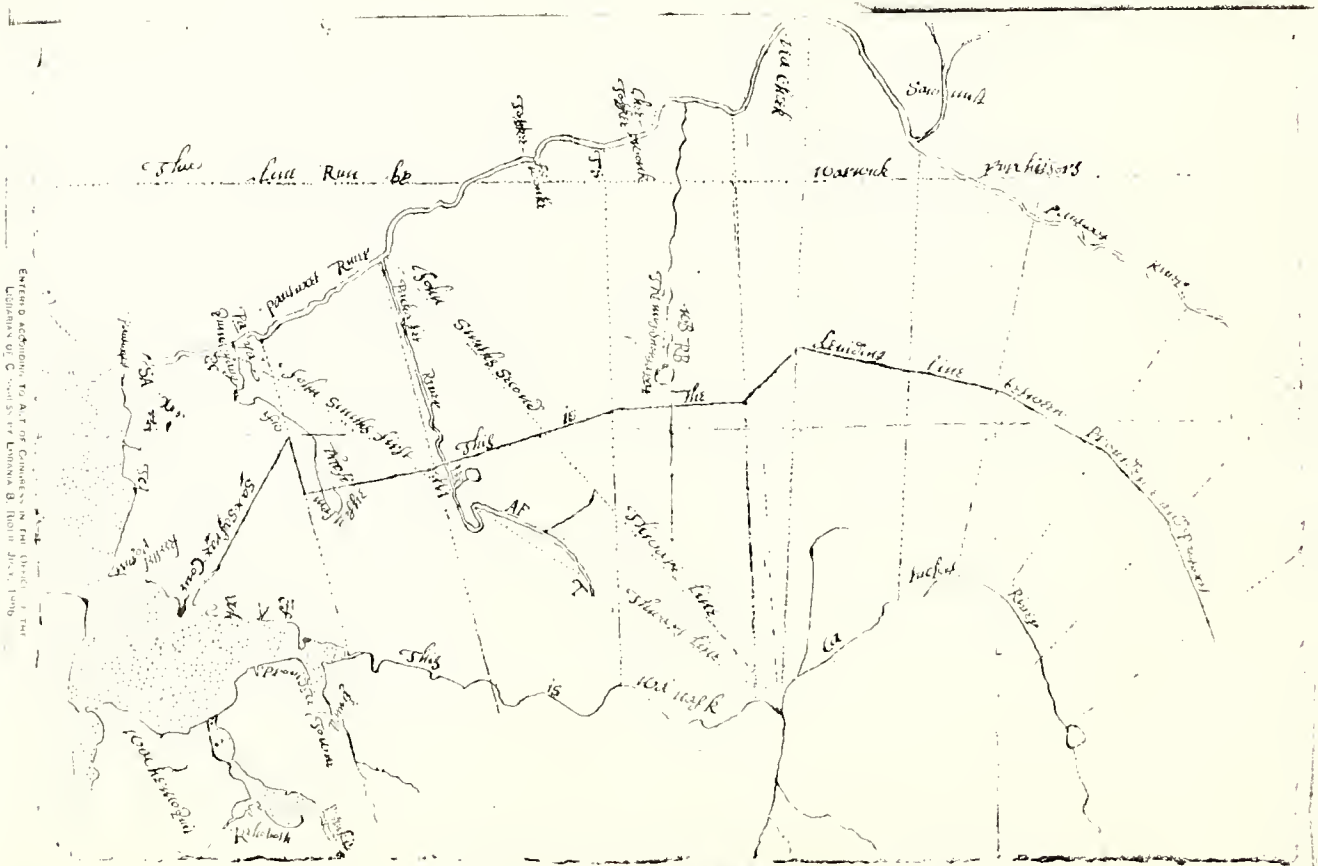
21 nov 1679 William Harris

The governor and council of Rhode Island thereupon appointed an officer to deliver possession to Harris of the lands. This officer was John Smith, of Newport. He made an honest effort, but failed to deliver possession, and so reported to the governor December 10, 1679. Judge Staples says this officer "applied to the plaintiffs for them to point out the lands, but they had neglected to do so. . . . It is probable, from Smith's detail of the circumstances, that the plaintiffs were determined not to accept possession, except according to their construction of the verdict, and they would not point out the lands unless he (Smith) would run

the lines described in the verdict, which he refused to do, because the verdict made it the duty of the defendants." It appears to me that Harris *could* not, instead of *would* not, point out the lands, at least not until the lines had been run. The duty of running the lines was placed upon the defendants, but in truth neither the defendants nor could anybody run the lines in accordance with the verdict. Judge Staples says the officer (Smith) refused (*Annals*, p. 586), but an original plat in the writer's possession discloses the fact that Smith made two attempts to draw the thwart lines, neither of which were accepted, as of course they would not be. It was now apparent to Mr. Harris that nothing could be accomplished under the decision of the court. He resolved at once upon another appeal to England, and for this purpose secretly departed (*R. I. Col. Rec.*, Vol. III., p. 78). No one in Rhode Island interested in the suit knew of his departure. It was his purpose to get another *ex parte* decision. Governor Cranston, finding this out, wrote directly to the king on the 6th January, 1679–80. His letters failed to go in the same ship in which Harris sailed, but this ship (with Harris) was cap-



OF THE PROVIDENCE PLANTATIONS.



PLAT OF THE LAND COMPRISED IN THE ORIGINAL PURCHASE OF THE PROVIDENCE PLANTATIONS, MADE ABOUT 1677, AND A PROPOSED LINE UNDER THE AGREEMENT OF 1640 LAID DOWN UPON IT.

tured by a corsair from Barbary, and Harris was held for ransom — which Arnold says was effected at a cost of $1,200. This is erroneous. The original loan was £289-9-7; the rate of exchange charged by the colony was 25 per cent. = £72-7-7; and from an account rendered by the colony of Connecticut against the estate of William Harris, about four years after the loan was made, a charge of £86-15-5 was made for interest. He further states that Connecticut became responsible for the whole amount — as well she might have been, for had Harris finally succeeded, as he and his friends fully believed that he would have done, Connecticut would have repaid herself out of the Rhode Island lands. After a year of confinement in an Algerine prison Harris was released, and departed for London. Sickness overtook him, and, weakened by imprisonment, he died three days after reaching that place.

The case did not die with him, but the leading spirit, the arch-conspirator, was gone, and the case languished until it also died, twenty-eight years later.

VIII.

THE CONTINUATION OF THE STRUGGLE IN ENGLAND AND THE FINAL FAILURE.

We now enter upon the final stage of this suit. Mr. Harris died, as related in the last chapter. The will which was mentioned as of 1678 took effect. It was admitted to probate in February, 1681. It made the widow of the testator, his son Andrew, and his daughter Howlong executors. Andrew never qualified; he was sick, and soon died. The widow qualified, but died in the year following, to wit, 1682, and Howlong Harris was left sole executrix. In 1684 the wife of Captain Arthur Fenner died. Fenner had been (for strictly pecuniary reasons) a strenuous opponent of the Harris suit. He now performed what would have seemed to be a neat act of policy — he married Howlong Harris, Mr. Austin says in 1684, which would have been within about six months of his former wife's death. Mr. Root, another genealogist, says the marriage was in 1686.

Which is correct is not now necessary to my purpose; it is sufficient that the marriage took place. This made the Fenner interest identical in a certain degree with the Harris interest, and had Howlong borne children they would have been joint heirs to all the lands which might be recovered under the suit. It is apparent from this will that Harris entertained no doubt whatever of the ultimate success of his schemes. He entailed his lands, and also what he expected would become his lands, to the fourth generation; but Howlong Fenner bore no children, so that had the lands been actually acquired they would have come down solely in the line of Andrew. Thus the wily policy of Arthur Fenner would have come to naught. This entail, had it been effective, would have expired with the death of Elisha Harris, 16 March, 1825. He was the grandfather of Elisha Harris, Governor of Rhode Island, 1847–49; hence Governor Harris would have been one of the first to have inherited these vast estates in fee simple. There are things said by Harris in this will which, taken in connection with a phrase quoted from Williams in this Tract, possess peculiar significance. This is what Roger Williams said:

"If all be divulged that may be produced and proved, there was hardly ever in New England W. Harris his equal for monstrous evils in land business." Now, then, observe carefully these things, for they throw a lurid light on Mr. Harris's transactions. He had entailed his property, and in addition his "verdicts, and judgments, and executions," in the male lines, while there existed male lines, for four generations, and then inserted a prayer to God in the will that when the property vested the heirs should entail it for four generations more. Mr. Harris did not then know what the people of this age would do with a Van Rensselaer manor. I must present the phrase in full: "They shall have by this my last will, and bequest, and enjoy his, her, or their just and equall parts according to ye custom of gavelkind land, as in ye law expressed, and as by ye Kings Patent to this his collony saith, according to ye customs of his manner [manor] of East Greenwich, in Kent, which by Lambath perambulations [*sic*] are intended customs of gavelkind, that is to say of male heirs then to be equally divided among them. . . . I have intailed my said land to my fourth generation, upon these following condi-

tions: *First*, that if it so come to passe yt my said son Andrew, his son, or sons, or daughter, or daughters, should be in time to come of any such opinion as by reason thereof, either envie raised, or laws enacted, or prosecuted to, or for, or supposed preëminence, *or for any supposed crime*, that in all such case, or cases, no person may so falsely accuse, in any hope to obtain to any other person ye said land by any such means, but yt my now said land might then, notwithstanding, descend and come to my said grand children." To my legal friends these clauses will need no interpretation, but to my lay readers an explanation may be acceptable. Mr. Harris refers first to the tenure by which lands were held in Rhode Island under the charter of Charles the Second. The phrase from the charter reads: "To be holden of Us, our Heirs, and Successors as of the manner of East Greenwich in the County of Kent, in free and common Soccage, and not *in Capite*, nor by Knight's Service." "*In Capite* and Knight's Service" were two land tenures under the Feudal System. They went out when Charles the Second came in, and this new tenure came to be the law of England. The tenure by which

lands were held, and from the advent of William the Conqueror had been held in the county of Kent, was different from all the other counties in England. It was the original of the fee simple of our own time; but this tenure possessed other rights to which Mr. Harris makes reference, rights or immunities even greater than the fee simple, and to these he refers by the term *Lambath perambulations.* This is a book, now very rare, entitled *Lambard's Perambulations in Kent, 1656.* Mr. Harris possessed it, as may be seen in the inventory of the estate. It is a description of the county, and possesses an elaborate and minute history of land tenures in that county. Gavelkind lands did not escheat in England except for treason or for want of heirs. But when William the Conqueror came in he extinguished this immunity in every county in England save Kent. Thus Mr. Harris reminds people *that even if crime was proved upon him* his lands would still go on down as he had devised by the tenure under which he and everybody in Rhode Island held. It was the boast of the men of Kent that they never had been bondmen nor even held lands in villanage. There is another curious pro-

vision in this will which possesses great interest: "I say, I so committ ye said lands, &c. to Andrew, and Howlong, confiding in their faithfulness, in trust, according to such private instructions as I shall give them. That no person, nor persons, nor any court, or courts, shall compell them to, or by any demand of ye said land, nor to show to any, the said my private instructions thereabout, nor make answers thereto."

Thus Mr. Harris proposed by a will to tie the hands of all the Rhode Island courts in case it might be thought necessary to inquire into his acts. Secrecy was his predominant trait. He carried it through life, and projected it as far as he could after his death. In 1685 William Carpenter, one of Harris's Pawtuxet partners, and the chief one, died. He also left a will, in which he bequeathed a large part of the northern half of Rhode Island to some of his sons. He did not entail his supposed property. He had bought out the rights in this Pawtuxet purchase of ten of the proprietors, all which shows at that time his belief in absolute success. At one time an effort on the part of the town of Providence to compromise with Harris had been made and rejected by

him. He was bound to have the whole. The original document is in the writer's possession. It agreed to release all claim to lands west of the seven-mile line, about half the land in that direction. From the death of Harris continued efforts at a compromise were made by one or the other of the parties. In 1685 the case was laid before the selectmen of Salem by the successors of Harris for an opinion. An opinion was given that the claim had become extinct. But there was a lawyer at Plymouth, Mr. Nathaniel Thomas, who had been long concerned in the case. In 1687 he proposed to the Harris party (for I still call it by his name) to procure a *new charter*, which he assured them could be accomplished speedily and at small cost, and under it they could possess themselves of all the lands which they claimed. Mr. Thomas says, "My advice is that with expedition and secrecy as to ye adversaries" this be done — *ex parte*, of course, as usual. This was discussed, but nothing came of it. Later in the same year or early in 1688 Mr. Thomas attempted with a writ of *scire facias* at Newport to reopen the case, but his attempt failed. From that time until 1704 the case

rested. At that time (1704) Mr. Thomas came with a new but characteristic proposition. It is sufficiently interesting to justify an extended copy:

As I promised you, I went on Monday last to Boston and consulted with his Excellency our Governor [Joseph Dudley] about your controversy. He very readily told me that he would present your cases to the Queen [Anne] and gave me all necessary directions touching the management of the same, and that he has a person in England at the Court to do all that is necessary for the procurement of an order from the Queen [he supposes] to himself to put you in quiet possession of all those lands contained in the five verdicts, together with execution for your former costs in those suits; but you must first know that no business can be done in England at the Court without money; your petition that you must send, together with divers other papers, to make the case apparent, must pass through sundry clerks and offices, where they will not move without money; therefore it is necessary for all you the partners in the said cases to meet together, and in equal proportions to each one's share, raise the sum of fifty pounds in money, which will procure about forty pounds in bills of exchange for England, to carry the cause along to effect, and then you need not doubt of being put in possession, and have execution as aforesaid in a short time; and I must further tell you that I have formerly been at considerable trouble, charges, and expenses in this affair in divers ways, and must now be at more in copying sundry papers, get-

ting them attested, and sent by our Governor under his seal, to make all things plain to the Court in England. Therefore, if you the partners in said land at Pawtuxet, will by deed make me an equal sharer with you [the person to whom the letter was addressed] in these cases, as hath formerly been promised to me, then will I carry on your business without any other demand for my services either formerly or to come.

This last proposition was not accepted, but money was raised and sent to Mr. Thomas, and the case was now to be attempted to be brought to a successful issue by intrigue pure and simple. The case was made up by Governor Dudley, of Massachusetts, just as his predecessor, Governor Leverett, had done, and sent to his private emissary, Mr. John Chamberlain.

On the 12th of June, 1707, Mr. John Chamberlain gives the result of his efforts thus:

Yesterday after a full hearing before the Lords' Committees of the Council, they were pleased unanimously to dismiss my petition in behalf of Mr. Harris and others. First, because of the length of time. Secondly, because none of the parties that have this land (in possession) were summoned, for they were all of opinion that those persons who withhold and detain the lands from Harris and the rest ought to have been summoned and heard by their counsel before the Queen directs execution to

be awarded to turn them out of possession; besides they said they could not order the Government of Rhode Island to grant execution, it not appearing by affidavit that application had been made to them for many years past for that purpose, . . . but after all my lawyer tells me that he fears it (a new preparation of the case) will be like dressing a cowcumber with oyle and vinegar, pepper and salt, and then throwing it upon the dunghill. That is to say, he doubts that when you have done all, the great length of time that this case has been depending (about 47 years) will be a stumbling block in your way never to be got over.

The days of *ex parte* decisions had departed, as had also the power of intrigue on the part of Massachusetts governors against Rhode Island. Thus the case came to an end, not by a decision upon its merits, a trial for which by an impartial court the Harris partners had always avoided and which would have been fatal, but upon a question of laches, raised not by the defendants, for they were not present, but by the English Government itself; and this defense before any impartial court would have been just as effective at the beginning of the case as it came to be at the end. The statute of 21 James I made peaceable possession for twenty years a bar to the right of entry,

save only in certain cases. If the confirmation deeds of 1659 actually confirmed the memorandum of 1639 and the land passed under that paper, then the grantee (Williams) had held twenty years peaceable possession, or if he had not then the sachems had, and could not by the English laws have been displaced. One or the other, or both, the sachems or Williams, barred the entry of Harris.

A recent legal writer upon these matters says, "This controversy was finally settled in the early part of the next century by restoring to the Grand Purchase of Providence all the land that the proprietors had ceded to the Pawtuxet purchasers." This must be in error, because the land ceded was bought and paid for and a deed given 8 October, 1638. Land which these men never acquired could not be receded. That which was done was to extend the jurisdiction of Providence over these newly acquired lands by act of the General Assembly.

Hitherto the chief accounts of this suit were those which have appeared in Judge Staples' *Annals of Providence* and Mr. Arnold's *History of Rhode Island.* The first is by far the least com-

plete, and yet Mr. Arnold refers his readers to it for completeness. Mr. Arnold's account stops at 1679, or twenty-eight years before the suit came to an end. The strange thing to me with their accounts is that neither saw the destructive character of the suits in relation to the dismemberment of the colony; neither saw the fraudulent character of the foundation of the suit, nor the packed court with its false legal references, nor the packed jury, nine of whom said that their verdict was such as Mr. Harris had asked and the court directed them to bring in; neither makes any reference to a new charter nor to the subsequent intrigues in England; neither makes any mention of the apparent fact that Harris's schemes were laid with special reference not to his legal defenses, but solely to surrounding political conditions; and lastly, both writers have what might fairly be termed complimentary notices of him. Mr. Arnold has actually applied to him the epithet "great," which is, as I look upon the case, a perversion of the use of the word. Chief Justice Staples in closing his chapter gives this opinion: "That while Harris had some knowledge of the English Statutes, he was no lawyer, but

was a man of much mental strength." As I survey the ruins of the structure which is here demolished I am constrained to the same opinion. It appears to have been the work of a crafty and cunning mind rather than that of a mind honest and well trained in the study of the law. Throughout Mr. Arnold's account it is apparent that he was more deeply impressed with the interminable arguments for the plaintiff than by the facts upon which the arguments were supposed to rest. Had he known the facts he could never have written the account which he wrote. He closes his account with the following phrase concerning the two men most prominent in the case: "His controversy with Roger Williams we have before referred to; it was never forgotten, and *scarcely forgiven*, by either of these great men, and presents the darkest blot that rests upon their characters" (*Hist. R. I.*, Vol. I, p. 437). It is possibly unnecessary to say that with such sentiments I am wholly at variance. Harris had no controversy personally with Williams. His controversy was with every citizen of Rhode Island north of the town of Exeter, but after what I have written a defense of Mr. Williams seems to

be scarcely necessary. The facts in the case are his best defense. Mr. Williams by his antagonism to the claims of Harris could gain no lands nor preserve to himself any which he had before gained. No charge of pecuniary taint attaches to him. He had no ulterior purpose, and he was the only man in the colony so situated. He came here by force to find relief from religious persecution, both for himself and others, and Harris and the others came with him. He let them in upon a nominal consideration, but scarcely had they obtained possession than they began this tremendous fraud with a set purpose to possess themselves of the lands and houses of a vast number of their fellow settlers without payment therefor. It was neither more nor less than a gigantic "steal." This scheme, the iniquity of which was clear to Williams, he opposed with all the force which his great age permitted. Ought he to have done otherwise? And why should he be maligned because he did so? In the condition in which he stood what other course was open to him? None whatever. I agree with Mr. Arnold that what Williams did "was never forgotten," and I hold that it ought never to be forgotten.

Moreover both men died in the very middle of the struggle, so that there was nothing for either to forget; but when Mr. Arnold says that Williams's course was "*scarcely forgiven*" by Williams himself I confess I cannot understand him. I am unaware that Williams has left any record of regret at his course. One thing is clear: those who hereafter propose to malign Williams for his "quarrel," as they have called it, with Mr. Harris will have first to overthrow the positions taken in these chapters.

IX.

WHAT WOULD HAVE HAPPENED TO RHODE ISLAND HAD HARRIS AND HIS PARTNERS SUCCEEDED — EXTINCTION.

So far in this Tract the subject has been treated from a purely historical point of view. It was intended to treat of what happened; let me for a moment speculate upon what might have happened had Arnold and Harris succeeded in their plottings. As an assistance in reaching a just conclusion in such a speculation let us consider what the surrounding colonial governments did concerning the matter, and their purposes or intentions and desires. As early as 1642 Massachusetts attempted to capture the land at the head of Narragansett Bay. Winthrop (*Hist. New Eng.*, Vol. II, p. 102) says: "At this Court four of Providence who could not consort with Gorton and that company came and offered themselves and their lands to us and were accepted under our government and protection; this we did partly to rescue these men from *unjust violence*, and

partly to draw in the rest in those parts, either under ourselves, or Plimouth . . . and the place was likely to be of use to us, if we should have occasion of sending out against any indians of Narragansett, and likewise for an outlet into the Narragansett Bay."

The four men who thus put themselves and their lands under the jurisdiction of Massachusetts (or endeavored to do so) were William Arnold, his son Benedict Arnold, Robert Coale, and William Carpenter (see note by Savage in Winthrop's *Hist. New Eng.*, Vol. II, p. 102). Of these men William Arnold and William Carpenter were partners with William Harris in his land conspiracy.

In 1643 Massachusetts and these Arnolds took the second step. This also Winthrop records thus: "Sacononoco and Pumham two Sachims near Providence having under them between 2 and 300 men finding themselves overborne by Miantunnomoh and Gorton and his Company, who had so prevailed with Miantunomoh, as he forced one of them (Pomham) to join with him in setting his hand or mark to a writing whereby a part of his land was sold to Gorton and his Company, for which Miantunnomoh received a price,

but the other would not receive that which was his part alleging that he did not intend to sell his land though through fear of Miantunnomoh he had put his mark to the writing. They came to our Govenor and by [Benedict] (Winthrop wrote it Benjamin) rnold their interpreter did desire we would receive them under our government."

Thereupon the Massachusetts government entered not into this question of land titles held from the Indian by Gorton and his company, but into the theological soundness of Mr. Gorton. This Winthrop also records (*Hist. New Eng.*, Vol. II, pp. 145–148), and concluded that, their theology being heterodox, their title to the land must necessarily be defective, accepted the submission of the two Indians, and undertook to oust and exterminate the English owners (*Hist. New Eng.*, Vol. II, p. 148). All this was managed by Benedict Arnold.

On this flimsy foundation Massachusetts rested her claim to the jurisdiction of these lands — the submission of four white men, without the knowledge or consent of the other inhabitants, joint owners with them in these identical lands, and to under chiefs, one of whom had signed the Warwick

deed a year and a half before, and the same who was murdered by Massachusetts soldiers a few years later, in 1676, in the Dedham woods.

In the year 1643 Roger Williams was in England, where he was granted the Warwick charter, erecting the four towns, or the three then existing, and Warwick subsequently, into a colonial government.

During all these years, while acting with the Providence government, William Arnold was carrying on a traitorous correspondence with the Massachusetts Colony, all the while "humblie desiring that my name may be concealed," which is in itself a confession of treachery. Specimen letters by William Arnold may be seen in Hazard's *State Papers*, Vol. I, p. 556.

Roger Williams came from England with the Warwick charter in the autumn of 1644.

Early in the year 1645 Winthrop has stated that "the government of Plimouth sent one of their magistrates Mr. Brown to Aquiday Island (Newport and Portsmouth) to forbid Mr. Williams etc. to exercise any of their pretended authority upon the island claiming it to be within their (Plymouth's) jurisdiction." Mr. Winthrop further

says: "Our Court also sent to forbid them to exercise any authority within that part of our jurisdiction at Patuxet and Mishaomet (Warwick), and although they had boasted to do great matters there by virtue of their charter yet they dared not to attempt anything" (Winthrop's *Hist. New Eng.*, Vol. II, p. 270).

In August this same year (1645) notice was served upon Roger Williams by the Massachusetts government that it held a charter whereby the Narragansett Bay and a certain tract of land, wherein Providence and the island of Aquiday, are included, and forbidding Williams under his charter from exercising any jurisdiction therein. (*Mass. Col. Rec.*, Vol. III, p. 49; also *R. I. Col. Rec.*, Vol. I, p. 133).

The charter here referred to by the Massachusetts government was the fraudulent Narragansett Patent. No other use than this threat was ever made of it. This was in reality a threat of war, and it so thoroughly alarmed the infant towns that it prevented a union under the Warwick charter until 1647.

In the autumn of 1648 William Coddington, then chief in the government at Newport, brought

from Plymouth "propositions for Rhode Island to subject to Plymouth, to which himself (Coddington) and Portsmouth incline" (*R. I. Hist. Tract*, 1st Ser., No. 4, p. 29).

In January, 1649, Governor Coddington left Rhode Island for England, where he privately sought and obtained a commission of government in himself for life, and assumed the government of the island of Rhode Island; that is, the towns of Portsmouth and Newport, or one half of the Incorporation of Providence Plantation. This was in April, 1651.

This act aroused an intense opposition, and arrangements were made at once to send Roger Williams and John Clark to England to obtain a revocation of the Coddington Commission. This was in September, 1651, and this determination was no sooner taken than it was communicated by the traitor William Arnold to the Massachusetts government. Williams and Clark were successful in England in obtaining a revocation of the Coddington Commission. It was revoked in 1652, and the revocation reached Newport in February, 1653.

Concerning this act Mr. S. G. Arnold says:

"Coddington and the town of Portsmouth were willing to accept the conditions, but were prevented by the other towns; had they submitted the (Warwick) charter would have been virtually annulled and the schemes of the surrounding colonies to appropriate the rest of the State might have proved successful; Rhode Island would soon have been absorbed by Massachusetts and Connecticut" (Arnold's *Hist. R. I.*, Vol. I, p. 223).

Mr. Hutchinson says: "Plymouth would have been soon swallowed up in Rhode Island from the great superiority of the latter; besides, the principles of the people of the two colonies were so different that a junction must have rendered both miserable" (Hutchinson's *Hist. Mass. Bay*, 1795, Vol. I, p. 141).

Concerning this superiority of Rhode Island over Plymouth, Bailies' *Hist. of Plymouth*, Book III, p. 191, gives the population of Plymouth in 1675 as being 7,500, while Snow (*Census of 1865 of Rhode Island*, p. xxxii) gives the population of the colony in 1708 as being 7,181.

In reply to the Hutchinson note above Mr. Arnold says: "But as Plymouth was herself annexed to Massachusetts in 1692, the whole of Rhode

Island, except the King's Province, which was claimed by Connecticut, would have belonged to Massachusetts" (Arnold's *Hist. R. I.*, Vol. I, p. 224).

When Coddington had assumed authority under his commission Mr. William Arnold, in a letter written in 1651 to the Massachusetts government, says: "He, Coddington, have thereby broken the force of their Charter that went under the name Providence because he have gotten away the greater parte of that colonie . . . it is greate petie and very unfitt that such a company as these are . . . should get a charter for so small a quantity of land as lyeth in and about Providence, Showomut, Pautuxit and Coicett, all which now Rhode Island is taken out from it; it is but a strape of land lying in betweene the colonies of Massachusets, Plymouth, and Conitaquot, by which means if they should get them a charter, off it there may come some mischiefe and trouble upon the whole country if their project be not prevented in time, for under the pretence of liberty of conscience about these partes there comes to live all the scume, the runne awayes of the country" (Hazard's *State Papers*, Vol. I, p. 556).

In 1662 came the Connecticut charter, one year before the Rhode Island charter. In this Connecticut charter was the clause, "Bounded on the east by the Narrogansett river, commonly called Narrogansett Bay, where the said river falleth into the sea." On this clause Connecticut based her claim to all the land west of Narragansett Bay, and this claim she maintained until it was overthrown by the king in 1727.

In 1676 Governor Winthrop, of the Connecticut Colony, being in Boston, wrote to his council that he had heard nothing yet from the governors of Massachusetts or Plymouth respecting Mr. Harris's business, but infers that they waited "Mr. Harris his further motion who was willing to defer until these troubles with the Indians were somewhat over, especially in these parts; where I suppose there will not be so much striving for land for a while" (*Conn. Hist. Col.*, Vol. II, p. 588). The governor then advised the appointment of commissioners to meet with those to be appointed by Massachusetts and Plymouth. This was done.

In 1680 the money with which to ransom William Harris from the Barbary pirates, or a large part of it, was paid by Connecticut. The sum

which Connecticut sent was £289-9-7. (See p. 101.) (*Conn. Col. Rec.*, Vol. III, p. 169.) How was Harris to repay these outside colonies which paid this ransom save by a transfer of the jurisdiction of the territory?

In a letter written by Nathaniel Thomas, a lawyer at Plymouth, to Thomas Field and Nathaniel Waterman, Mr. Thomas says: "Being often at Boston, I have lost no opportunity of consulting with such as best know how you might come to the peaceable possession of your lands at Pautuxet, held from you by Mishantatuck and Warwick men; now last week going to Boston I consulted Mr. Wharton (Richard), the President, and others, and they all advise me to have a new Patent (Charter) taken out." This letter is dated at Marshfield, July 14, 1687. It is in the writer's possession.

Again in 1704 Governor Dudley, of the Massachusetts Colony, entered into an intrigue in England to assist the Harris partners as against Rhode Island in getting possession of these lands. The following extract from a letter written by Nathaniel Thomas in 1704 explains the manner of this intrigue:

As I promised you, I went on Monday last to Boston and consulted with his Excellency our Governor (Joseph Dudley) about your controversy. He very readily told me that he would present your cases to the Queen (Anne) and gave me all necessary directions touching the management of the same, and that he has a person in England at the Court to do all that is necessary for the procurement of an order from the Queen (he supposes) to himself to put you in quiet possession of all those lands.

It must not be overlooked that the Narragansett lands, which subsequently became the King's Province, are unmentioned by Arnold, nor does he mention the lands which Richard Smith had in his possession under purchase from the Indians and under a lease for one thousand years.

On the eastern shore Plymouth held possession from the sea to Rehoboth until 1692, when the Massachusetts swallowed Plymouth, and from that time until Massachusetts was ordered off by the king, in 1746, that colony held possession.

This Arnold-Harris claim covered the period 1660 to 1707, and before 1660 it had been in process of incubation. During all this period the three surrounding colonies, Connecticut, Plymouth, and the Massachusetts, had been in actual posses-

sion of much more than one half of the entire Colony of Rhode Island, with claims enough set up to cover the whole.

Such were the acts of the colonial governments and the opinions of men when in 1658 William Arnold — the same who wrote the preceding letter — went, with William Harris, whose partner in this land conspiracy he was, into the Providence town meeting and obtained a vote recording what they (Arnold and Harris) declared were the *true words* of the town evidence; in other words, the original deed from Canonicus and Miantinomi to Roger Williams of the land upon which Providence was planted. Those "true words" were forgeries.

In the light of such a history how long would it have been before the surrounding colonies would have absorbed Rhode Island in case Arnold and Harris and their partners in this scheme had succeeded in obtaining possession of the lands which they claimed? We think not long; but, founded upon fraud and forgery, the plans failed, and Rhode Island was saved from destruction.

RHODE ISLAND HISTORICAL TRACTS

SECOND SERIES

No. 4.

THE FORGERIES CONNECTED WITH THE ORIGINAL DEED GIVEN TO ROGER WILLIAMS BY THE SACHEMS.